161

8981
30111

List of Retainable papers for 1850.

s. Court of Wards Madura Collector's Office.

மதுரை மாவட்ட ஆட்சித்துறை

Substance.

Decree of the Civil Court of Madura O. S. No 1 of 1848 A. file. Shivagunga Sub Division

...ee of the Sudder ... A. S. No 53 ... 47, dated 5th Nov ... 849. Sub Divn. Zemindar ... the Shivagunga Zemindar.

D. ...
செப்பனிடுவதற்காக எடுத்துக் கொள்ளப்பட்ட
... மாதம் 19.. வருடம்
செப்பனிட்டு முடித்த
... மாதம் 19.. வருடம்
ஆராய்ச்சி உதவியாளரின் கையொப்பம்.

Secretary the Court Wards — Extract from the Proceedings of the Court of Wards dated 30 June 1850.

Do — Extract from the Proceedings of the Court of Wards dated 20th June 1850, communicated to the Govt Vakeel relating to a Suit for the possession of Zemy.

Do — Answer from the Govt Vakeel to the above proceedings

Original

List of Retainable papers for 1850.

Received Letters Court of [illegible] Madura Collect[illegible]

Date.	Number.	From whom received.
[illegible]/3/50	[illegible]	

Extract fr[illegible]

of [illegible]

de[illegible]

Repe[illegible]

the abstract [illegible]

Then again [illegible]

after Coun[illegible]

was do, [illegible]

the Sudder, be [illegible]

the petition of the a[illegible]

in A. G. No. 706 [illegible]

Extract from [illegible]

of the Sudder [illegible]

under date the [illegible]

1849, Cancelling [illegible]

order of atta[illegible]

the [illegible]

da[illegible]

List of Retainable papers for 1850.

Received Letters Court of Wards Madura Collector's Office

Date.	Number.	From whom received.	Substance.
5th Aug 1850	..	Secretary to the Court of Wards.	Communicating to the Collector the extract from the proceedings of the Bd of Rev dated 5th August 1850, regarding the suit for the possession of the Zemindary.
18th June 1850	..	Do	Correspondence relating to the suit on behalf of Rungammothoo Natchiar
..	..	...	Decree of the Subordinate Court of Madura in O. S. No 35 of 1849 before the Subordinate Court of Madura.
..	..	...	Extract from the Proceedings of the Sudder Adawlut under date the 16th Sep 18 concerning the order to pay the remaining of the sub. div of Cuttanoor to the Zemindar of Sheevagunga
		...	Extract from the Proceedings of the Sudder Adawlut under date the 21st Oct. 1850, in A. S. No 7 of 1849 on the file [illegible]

List of Retainable papers for 1850.

Rece[illegible] Letters, Court of Wards — Madura Collector's Office.

Date.	Number.	From whom received.	Substance.
5th Dec 1850,		Secy to the Court of Wards	Communicating to the Collector Bd's order connected with the Sale of lands belonging to a Fish rent defaulter in the Shevagunga Zemy.

List of Retainable papers for 1851.

Received Letters Court of wards Madura Collector's Office.

Date.	Number.	From whom received.	Substance.
20th Feb 1851	..	Secy. Bd of Revenue	Communicating to the Collector of Madura, Bd's opinion to abolish the Public [illegible] system as applicable to the Dt of Madura in the Sheva Ganga Zemindary except in Cases of fraud & a deficiency of more than 10 p.c.
24/2/51	..	Do	Correspondence relating to the right of a Zemindar to grant Cowle for waste land in perpetuity or for a limited term of years.
5 Sept 1831	..	Do	Forwarding a copy of the Proceedings of the Bd Sent to the Collector of Chingleput in June 1831, relating to the lands in Madura Dt, held on Cowle with reference to the settlement of [illegible] for fusly 1239
20/4/1831	65	Do	Correspondence relating to the clearing & grant of waste lands of Puttahs for bringing them under Cultivation

List of Retainable papers for 1851.

Receiv[ed] Letters. Court of Wards Madura Collector's Office.

Date.	Number.	From whom received.	Substance.
24th March 51	269	Sub-Secretary	Communicating to the Collector the opinion of the Govt that surplus income of the Zemindars under Ct of Wards, may be better utilised in improving his property than in being invested for fear of being squandered, on his coming of age
2d March 1851		do	Extract from the Proceedings of the Court of Wards dated 2d March 1851, relating to the question of restoring Moolgoody village, ~~pending an of~~
			Extract from the Proceedings of the Sudder Adalut under date 15th May 1851, relating to a Suit for the Zemindary of the Shivagungah Zemy, between Ranee Sonnia Natchiar & another.

List of Retainable papers for 1851.

Received Letters *Court of Wards* Madura Collector's office. 9

Date.	Number.	From whom received.	Substance.
18/8/51	..	Secy.	Extract from Proceedings of the Sudder Adalut under date the 18th August 1851, relating to a Pauper Suit in A. S No 7 of 1849, by Ranee Engaumoottoo Natchiar
10/9/51		R. Fischer	Correspondence relating to the restoration of a Coolie maniem falsely sequestrated, to Gounnee Vallabhadaver
10/11/1851	..	..	Extract from the Proceedings of the Sudder Adalut under date the 10th Nov. 1851, relating to the suit A. S. 89 of 1850

#5

List of Retainable papers for 1852.

Received Letters Court of Wards Madura Collector's Office.

11

Date.	Number.	From whom received.	Substance.
..	..	Secretary	Extract from the Proceedings of the Court of Wards dated 18th March 1852, relative to Desa Canal Enams, coming under the Peshcush of the Zemindary of Sheva Gungah.
22/3/52	..	Fischer	Correspondence relating to the origin, & nature of Desa Canal Maniems held by the Padamatoor Zemindar.
5/3/52	..	Secretary	Interpretation of rulings and answers to questions, by the Pundits of Sudder Udalut, relating to the order of Succession to a Zemindary.
19/4/52	..	Do	Extract from the Proceedings of Sudder Udalut under date [illegible] 16th April 1852, in A. S. No 7 of 1849.
9/4/52	—	Secretary	Extract from the Proceedings of the Court of Wards dated 29th April 1852, relating to the resumption by Mr Huddington of Desa Canal Enam[illegible]

List of Retainable papers for 1852.

Received Letters. Court of Wards Madura Collectors Office.

Date.	Number.	From whom received.	Substance.
29/4/52	..	Secretary	Correspondence relating to resumption by Mr Lushington of the Desa Caval Enams.
..	..	..	Abstract of a report regarding the 4 villages under the enjoyment of the Sub Divn Zemindar of ~~[illegible]~~ Cuttanoor Ashkers, without paying Peeruah nor causing the said villages to be entered in the ~~[illegible]~~ Jamabundy accounts
18/5/52	..	Fischer	Correspondence relating to the claim of the Padamathoor Zemindar to certain lands called Desa Caval Maniums in the village of Tiroo' punnavam
4/3/47	..	Secretary	Extract from the Proceedings of the Board of Revenue dated 6th March 1847, relating to a claim for the Elianthagoody village.

List of Retainable papers for 1852.

Received Letters Court of Wards Madura Collector's Office.

Date.	Number.	From whom received.	Substance. 78
"	"	"	Correspondence relating to the Shedunghee & Puttanandal villages, establishing them as Durmasanums in the 21st Jan 1824

[Ex]tract from the Proceedings of the Sudder Udalut
Under date the 7th March 1850.
In Appeal Suit No. 53 of 1847.

on the file of the Sudder Udalut

Gouree Vullabha Taver Sub-division Zemindar of Cuttanoor } Appellant

Versus

Sreemut Rajah Mootoo Vezia Raghoonadha Bodagooroosamy Pereya Oodia Taver Eldest Son of the late Zemindar of Shevagungah by his guardian Coottee Joseyer } Respondent.

Read motion presented on the 28th December 1849 by T. Ramachendriah Vakeel on behalf of the Appellant in the above Appeal. –

Read also miscellaneous petitions presented on the 21st December and 11th February 1850 by Goolam Moortoozah Vakeel on behalf of the Respondent in the above Appeal –

Read also miscellaneous petition presented on the 21st February 1850 by T. Ramachendriah Vakeel on behalf of the Appellant in the above Appeal –

1. The Court of Sudder Udalut see no reason to stay the execution of the Decree passed in the above Appeal, and they accordingly direct that it be carried into execution and that the Bond tendered by the Appellant be received as Security for the annual produce of the Villages awarded to him. –

Ordered that Extract from these Proceedings be sent to the Civil Judge of Madura by Precept returnable within XV days from and after its receipt.

Ordered also that Extract from these

these Proceedings be furnished to the Petitioner's Vakeels on their Application —

(True Extract)

(Signed) A. J. Arbuthnot
Head Assistant to the Register

(True Copy)

[illegible signature]

Acting Subordinate Judge in Charge

No 1 — [illegible]

Enclosure in
Receipt from the
Act. Sub. Judge
Madura dated
18th March
1857

[illegible] Mootoocrishna Pillay

The Decree of the Court of Sudder Udalut.

Before the Civil Court of Madura —— Original Suit No. 1 of 1843.
Court of Sudder Udalut —————— Appeal Suit No. 53 of 1847.

Appellant		Respondent
Gouree Vullabha Taver	Versus	Sreematoo Rajah Moottoo Vezia Ragoonadha Bodagooroosamy Pereya Oodia Taver Eldest Son (Minor) of the late Zemindar of Shevagungah by his Guardian Coottee Doseyer.
Vakeel		Vakeel
T. Ramachendriah		Goolam Moortoozah

L.S.

(Signed) C. P. Thompson
" W. A. Morehead.

The following Extracts from the Decree passed by the Civil Court of Madura will explain the nature of this Suit.

"This action is brought to try the validity of a certain Deed or "grant made and executed on the 12th November 1818 by the then Zemindar "of Shevagungah in favor of Moodoo Ramalinga Taver, his Son by a "woman of inferior Caste; whereby he designed and purposed to alienate, "and as far as in him lay, did alienate and make over in perpetuity "to the said Moodoo Ramalinga Thaver and his heirs a certain part "and portion of the aforesaid Zemindary, that is to say Cuttanoor "and twenty eight other Villages paying an annual rent of Ru"pees 7,363-15-6 and yielding an annual produce amounting to "Rupees 10,338-13-2."

"The Plaint setting forth the grant, argues that it is invalid

"invalid as being contrary—1st. to Hindoo Law. 2d. to the Custom of the "Country and usage in such Cases. 3d. to the tenure under which "the Zemindary is held of the State, as expressed in the 7th paragraph "of the Istimrar Sunnud. and 4th. as opposed to Section VIII Regula-"tion XXV of 1802."

"First and Second Defendants in answer maintain the Grant "to be valid. 1st. on the ground that it is not contrary to Hindoo Law, "in as much as the Zemindary was not the inheritance but the "acquired property of the common Ancestor of themselves and the "Plaintiff: 2d. that it is not opposed to, but in accordance with, the "Custom and usage in such Cases, of which they submit instances "to the consideration of the Court. 3d. that it is not contrary to, but "in accordance with, the 7th 8th & 9th Clauses of the Istimrar Sunnud "under which the Estate is held of the State. 4th that it is not "opposed to, but in accordance with, the provisions of Sections VIII "IX Regulation XXV of 1802 - 5th that the right of Defendants has "been formally and repeatedly admitted by the Plaintiff and his "father; and 6th that their long enjoyment bars this action for "recovery under Section XVIII Regulation II of 1802."

2. The Civil Judge being of opinion that "the Deed in question was not made and executed in Conformity with the Regulations of Government and the Stipulations of the Sunnud" decreed that the Defendants should restore to the Plaintiff the Villages as specified in the plaint, and that the parties should pay their own Costs—

3. The 1st. Defendant appealed, and urged that the 7th Clause of the Istimrar Sunnud clearly entitled the proprietor of the Estate to make the assignment he did, that Section VIII Regulation XXV of 1802 gives also a similar permission, that the Course laid down in the 8th and 9th Clauses of the Sunnud and Section IX of the above law were scrupulously followed, and that,

the

the Estate being self acquired, the proprietor was at liberty to [illegible] of it as he felt disposed, and that he, Appellant, is the legitimate, and not the illegitimate Son of his father 19

4. The Appellant further observed that the decisions quoted by the [illegible] Judge in support of his judgment are inapplicable to this Case, and that Section XII Regulation XXV of 1802 refers to lands made over to religious and other purposes free of ~~tax~~ and to the resumption of Lakheraj lands, and not to the transfer of [illegible] lands, which when transferred, bore an assessment proportionate to the assessment of the whole Estate.

5. The Respondent answered that the Appellant was the illegitimate Son of the Original proprietor, and therefore the assignment of the land to him was illegal, and although the Registry of the same was certainly allowed by the Board of Revenue, yet in giving their Sanction to the measure they remarked that the mere registry would not give the transfer validity, and that the parties concerned might, if they thought proper, apply to the Courts for redress.

6. The Respondent goes on to say that the late proprietor of the Zemindary having alienated Several Villages of the Estate, some to Mosques and others to Pagodas, the number had been reduced to 800, the Collection on which was more than four lacs a year, and that the separation of 29 Villages, yielding a much higher revenue than stated by the Appellant, in favor of an illegitimate Son, is unjust to the legal heirs of the late proprietor.

7. This Case rests on the legality or otherwise of the transfer of the Villages in question.

8. The former Zemindar held the Estate under an Istimrar Sunnud granted to him by Government in 1803. In the 7th Clause of that Sunnud ~~granted to him by Government~~ it is declared "You

"You shall be at free liberty to transfer, without the previous consent of Government, or of any other authority, to whomever you may [think] proper either by Sale, gift or otherwise, your proprietary right in the whole or in any part of your Zemindary; Such transfers of your land shall be valid, and recognized by the Courts and Officers of Government provided they shall not be repugnant to the Mahomedan or the Hindoo Laws, or to the Regulations of the British Government; but unless such Sale, gift or transfer shall have been regularly registered in the office of the Collector, and unless the public Assessment shall have been previously determined, and fixed on such separate portion of your Estate by the Collector, such Sale, gift or transfer shall be of no legal force or Effect, nor shall such transaction exonerate you from the payment of any part of the public land tax — assessed on your entire Zemindary previously to such transfer, but your whole Zemindary shall continue to be answerable for the total land tax in the same manner as if no such transaction had occurred."

9. Section VIII Regulation XXV of 1802 is precisely the same as the above 7th Clause, and the Appellant argues that, by the terms of the Sunnud and the Law, his Grandfather was fully authorized, the Course therein laid down being strictly followed, to make over to his (Appellants) father the Villages in dispute, and the Court of Sudder Udalut are of opinion that he was.

10. The Court submitted a question for the opinion of their law Officers whether an alienation, such as made by the Original proprietor of the Zemindary in the Case under Consideration, was co[ntra]ry or not to Hindoo Law, and they replied that it was not, provided the portion so alienated did not exceed that given to the Legitimate Son, if he had one. By a reference to the Sunnud Istimrar filed in this Case it appears that the Zemindary originally Comprised 2033 Villages and now yields, as the

Respondent

it admits, more than four lacs of Rupees a Year. The 64
ny, in, therefore, of 29 Villages producing a net annual income of Rupees 2771 - is not in the opinion of the Court more than the Appellant's relationship to the proprietor entitled him to receive or the proprietor to grant.

11. The Civil Judge in his decision in this Case observes that the Deed in question was not made and executed in Conformity with the Regulations of Government and the Stipulations of the Sunnud, "for by Section XII Regulation XXV of 1802 Zemindars are declared absolutely incompetent without the previous Consent of Government to make such appropriations." The Court of Sudder Udalut would however observe that the Civil Judge has fallen into a Singular Error in applying that Section of the Law to the question at issue in this action. That Section declares that Proprietors shall not appropriate any part of an Estate permanently assessed to any purposes by which it may be intended to exempt to such lands from bearing their portion of the public tax, unless the consent of Government shall have been previously obtained for that purpose.

12. In the Suit now under consideration the Villages transferred to Appellant by the former Proprietor, were assessed with revenue by the Collector in accordance with the principle laid down in Section IX, and therefore Section XII is clearly not applicable.

13. The Civil Judge has likewise misunderstood the purport of the Court's Decree No 6 of 1821, as well as the Court's proceedings of the 27 September 1841. In Suit No 6 of 1821 the Village the Subject of that action, had been transferred to the Defendant in lieu of wages free of tax, and the Court decided "that such alienations were voidable on the determination of the interest of the person who makes them;" and the proceedings of the 27th September 1841 declared the same principle.

14. The Court reverse the Decree of the Civil ... adjudge the Plaintiff Respondent to pay all Costs. Rs. A. P.

Appellant's Vakeel fee recoverable from the Respondent on Rupees 10335-13-2 being the Amount Claimed calculated according to Clause first, Section XXV Regulation XIV of 1816 —— 356 -

Value of Stamp papers filed by the Appellant.

1 Roll for Vakalutnamah	2 - " - "	
1 Do. for the Brief Appeal Petition substituted for the institution fee	350 - " - "	
1 Do. for the other part of Do	4 - " - "	
9 Do for the Special Grounds of Appeal	36 - " - "	
17 Do. for Motions	68 - " - "	460 - " -
		816 - 11 -

Costs incurred in the Civil Court of Madura By the 1st and 2nd Defendants —— 584 - 11 -

Total Rupees One thousand four hundred and One, Annas Six & pice four, payable by the Respondent } 1401 - 6 -

Given under Our Hands and the Seal of the Court this 5th da[y] of November in the Year of Our Lord 1849.

By Order of the Court of Sudder Udaluk.

Read in Court this 10 day of December 1849. (Signed) G. T. Beauchamp Register

It is hereby certified that the Value of the matter in dispute amounts to the sum of Company's Rs. 10,335-13-2 and the period for appealing will expire on the 10 June 1850.

(Signed) G. T. Beauchamp Register.

(True Copy)

(Signed) G. T. Beauchamp Register

(True Copy)

[signature]

A. Sub. Judge in Charge

G. R. Moodookistna Pillay
A. Tr

65.

R

Extract from the Proceedings of the Civil Court of Madura under date the 16th March 1850.

Recd Extract from the Proceedings of the Sudder Udalut under date the 7th March 1850 directing the execution of their Decree in Appeal Suit No. 53 of 1847.

Ordered that copies of the above Extract and the Decree be forwarded to the Collector of Madura with a request to carry the said Decree into execution by causing Cuttanoor and twenty Eight other Villages forming a part and portion of the Zemindary of Shevagungah, to be placed forthwith in possession of Oyvary Vullabha Taver Sub Division Zemindar the Appellant.

Ordered that Extract from these Proceedings be sent to the Collector with a Precept returnable in X days from and after its receipt.

(True Extract)

[signature]

Acting Subordinate Judge
In charge

L. T. R. Mootookristna Pillay
19/3/50

15

{ Prepare the [illegible] [illegible] from the [illegible] dated 11 April 1850 [illegible] 65

Revenue Board Office
Fort Saint George,
26th July, 1849

From

J. Fycroft Esqre
Secretary to the Board of Revenue

To

J. F. Thomas Esqre
Chief Secretary to Government

Sir

Rev. Dept.

With reference to Extract Minutes Consultation 23d March 1849, authorizing the the Sheraguuga Zemindary in the Madura District being taken under the care of this Office in its capacity of a Court of Wards, I am directed by the Board of Revenue to submit for the information of the Right Honorable the Governor in Council, the accompanying + letters with their enclosures, from the Collector of Madura, from which it will be perceived, that the Court of

+ 18th May 1849
13th June --

Judr.

Sudr Adawlut have ordered that Estate to be attached, upon the grounds, that the revenues of the property will be more effectually secured for the benefit of the parties litigant before them, if the Zemindary be placed under the direct management of the Collector, than if left under the administration of a Manager acting under Regulation V, 1804. The Judges of the Sudr Udalut have however ex-plained, in reply to a reference made to them upon the point, that this measure has been adopted solely for the more efficient protection of the estate pending the legal proceedings now in progress, and that it is not intended to bar the exercise by the Court of Wards, of the powers de-volving upon them by the Regulation above quoted. Under these circumstances the Collector has submitted and the Board have sanctioned

Enclo-1 in Madras 13th June-

From Madras 9th June 1849.
Board's Proceedings 12th July 1849.

2

Present Zufty Estt. Rupees 2870 – 12.
Last D° } 2773 – .. Rupees

Manager's Estt. Rs. 3160 – 4

a Zufty Establishment nearly on the same scale as that maintained on the last attachment of the estate and considerably in reduction of the late Manager's establishment. Under the explanation afforded by the Court of Sudr Adawlut in respect to the cause, nature and extent of the attachment, the Board of Revenue propose in their Capacity of Court of Wards to maintain with the Sanction of Government, the supervision over the property and the Minor proprietor required by Regulation V 1804, and in that character to lay before Government the usual annual report upon the settlement and condition of the Zemindary

Revenue Board Office,
Fort St. George 26th July 1849 }

(Signed) T. Pycroft
Secretary

Extract

Revenue Department

No. 802

Extract from the Minutes of Consultation Under date the 23d August 1849.

Read the following letter from the Secretary to the Board of Revenue —

Here enter 26th July 1849 No. 334.

Para 1. The Right Honorable the Governor in Council is much surprized to learn that the Court of Wards which by the order of Government under date the 23d March was duly authorized according to law to take charge of the Zemindary of Shevagunga on behalf of the apparent heir of the late Zemindar a Minor has been divested of that charge by an Order of the Sudder Udawlut passed exparte upon the mere motion of the

appellant

appellant in appeal No. 7 of 1849 without calling upon the Court of Wards or its Agent the Collector or the guardian of the Minor Zemindar, to shew cause against the measure –

2 The Governor in Council observes that the appellant in No. 7 of 1849 was a Suitor in the Zillah Court for the Ze-mindary, and that the cause was decided against her: The Judges have not cited the provision of the law under which they have deemed themselves warranted in attaching the property, the Subject of litigation in the above appeal, at the instance of the unsuccessful Plaintiff in the Zillah Court, whose claim so far as it has been adjudicated upon, has been judicially pronounced invalid – The Governor in Council apprehends that, in general, attachment can only be resorted

to

to *no default of Security* for Staying the execution of a decree, or for the exe=cution thereof when it has passed *in favor of the Plaintiff* in the original Suit. If the decree in the O. S. had awarded the Zemindary to the present claimant, and the party in possession had moved to Stay execution pending his appeal and could not furnish the prescribed security, then the Court might have ordered attachment but it seems to be quite beyond the intention of the law to permit the disturbance of a party in possession of property when the decree which has passed in the cause, has for the present confirmed his title. If this be true in general, when the property is in the un=controlled possession of the Respondent, it would appear à fortiori that attachment is unwarranted when the property is not

under

under the controul of the Respondent but has been taken under the care of the Court of Wards according to law. The Governor in Council is not aware that there is a precedent under any circumstances for removing an Estate from the charge of the Court of Wards pending a litigation regarding it, even where, in ordinary cases, Security might be demanded. He feels sure that there can be no precedent for doing so in a case parallel to the present one.

3. Under the foregoing views, the Governor in Council is of opinion that the Court of Wards ought to have appealed against the order, and he thinks that this may properly yet be done.

4. With respect to the explanation of the Court of Sudder Udalut, that it is not intended that the orders of the Court of Wards passed in conformity with

Regulation

Regulation V of 1804, should be interfered with, the Governor in Council does not understand what is meant - It is only in order that due provision shall be made for the Management of the Estate that Government authorizes the Court of Wards to take upon itself the responsibility of interfering with private property and when ousted from the management it seems very doubtful whether the Court of Wards can interfere further with the Minor and his affairs. The Court's guardianship of the Minor appears to be an incident of its Trusteeship of the property and as, when there is no property paying revenue to Government, the Court of Wards cannot interfere for the protection of a Minor, so when the Court is deprived by a proceeding of a Court of Justice of

the

the management of an Estate it would seem to follow that its guardianship of the Minor must drop also. The Court of Sudder Udalut tell the Collector who has attached the Estate by their Orders, that Suits touching the property "are to be carried on by him, or the person he may appoint as his Superintendent or Manager" not, it is to be observed, under the Superin-tendence of the Court of Wards, as in the case of Estates administered under Regulation V of 1804, at least there is no reference to the authority of the Court in this respect—

5 The present position of the Court of Wards being so anomalous and questionable, it appears to be of im-portance to move the Sudder Udalut to reconsider the Order for the attach-ment of the Zemindary, which in every

view

view appears so exceptionable, and the Governor in Council is of opinion that the Government Vakeel in the Sudder Udalut should be instructed by the Court of Wards directly, or through the Collector of Madura as their Agent, to present an appeal against it on the grounds here stated, enforced by such arguments as they think proper.

(A true Extract)
(Signed) W. C. Montgomery
Secretary to Government

To

The Government Vakeel in
the Sudder Adawlut.

You are hereby authorized and directed to present a Motion on behalf of the Court of Wards to the Court of Sudder Udalut against the

the order passed by that Court in their Proceedings of 30th April 1849 directing the attachment of the Zemindary of Shevagunga at that time under care of the Court of Wards under Regulation V 1804, and to request the Court to reconsider that order, to remove the attachment of the Estate and to allow it to revert to the care of the Court of Wards.

13th September 1849. I have the honor to be &ca

(Signed) J. Pycroft

Secretary

Motion presented to the Sudr Udalut by Government Vakeel Gholam Moortoza on behalf of the Court of Wards.

1. Showeth, that your Court in your proceedings bearing date 30th April 1849 have ordered that the Zemindary of Shevagunga in the District of Madura at that time under care of the Court of Wards

according

according to the provisions of Regulation V of 1804 for the benefit of the Minor Proprietor Streemuthoo Rajah Moottoo Vezia Ragoonadu Bodagooroosawmy Perea Oodia Taver should be attached & placed under the management of the Collector of the District.

2 That the order in question was passed by your Court exparte on a simple motion presented by the appellant against whom a Decree had been given in the Zillah Court of Madura, and that neither the Court of Wards nor the Collector of the District, as their agent, nor the Minor Zemindar nor his guardian were called upon to show cause against the measure.

3 Under these circumstances Gholam Moortoza Government Vakeel, appearing on behalf of the Court of Wards

and

3)

and Acting under instructions received from them beg respectfully to move your Court to reconsider your orders given in your Proceedings of the date aforesaid to remove the attachment of the Sheveagunga Estate and to allow it to revert as before to the care of the Court of Wards for the following reasons, that is to say

1st That the party at whose instance the attachment was ordered was the unsuccessful Plaintiff before the lower Court, and that her claim so far as it had been judicially determined has been pronounced invalid.

2d. That as a general rule the attachment, pending the result of an appeal of property under litigation can only be resorted to, in default of Security for staying the execution of the Decree of the Lower Court or for the execution

execution thereof, when judgement may have been passed in favor of the Plaintiff in the O.S. that is, when in such case neither the Plaintiff nor Defendant can furnish due security for making good the mesne profits accruing from the property, the latter in the event of his being allowed to continue in occupancy & the Decree against him being eventually confirmed - the former, if he be placed in possession & the Decree in his favor be ultimately reversed. Had the Plaintiff in O.S. No. 2 of 1845 gained her cause in the Zillah Court & had the appeal now in progress been preferred by the Defendant, in such case, on failure of the latter to furnish the necessary security the estate might properly have been attached

Regn. IV 1802, & XI Clauses V - VIII - IX -
Regn. XII 1809, & XI Clauses II - III -

as

as an act of justice towards the Plaintiff, the Successful claimant in the Court below & presumptive owner of the Property, but where the issue of the Suit in the inferior Court has gone altogether to confirm the title of the Defendant, the party hitherto in occupancy, there can it is submitted, in such circumstances be no ground for disturbing his possession -

3rdly That your Court in your Proceedings of 30th April 1849 have not specified the Regulation under which you have ordered the Sequestration of the Zemindary - It is however to be presumed that it cannot have been directed in reference to Clauses V - VIII - IX, Section XII, Regn. IX of 1802, because these Clauses evidently apply to cases wherein judgment in the Lower Courts may have been given in favor of the Plaintiff, and wherein it

may

may be sought either to stay the exe-
-cution of the Decree or to obtain
execution thereof, whereas in the present
case the Decree having passed in favor of
the Defendant the party already in
possession there is no cause or room for
such execution there is in fact no decree
which could be executed & also because
the requisition of Security or order for
attachment to be made under those
clauses must be issued by the Court
"wherein the original judgment in the Clause - 5
cause may have been passed the power
of the appellant Courts under Cl. VIII
being limited to the exaction of Supple-
-mental Security after a lapse of time,
in the event of the period for which
the original Securities were given appearing
to be insufficient - neither can the order
for the sequestration of the Estate have

been

been given under Section XI Regulation XII of 1809, inasmuch as the provisions of that Section apply only to cases wherein a person "claiming the proprietory right in land houses or other immoveable property not in his possession may obtain a Decree "adjudging him to be the Proprietor of such land houses or other immoveable "property" & wherein the appeal may be preferred by the party hitherto in possession neither can the order have been passed under Section V, Regulation II of 1811 because so long as the estate may be under the care of the Court of Wards, it cannot be said that there is any reason to apprehend that the Respondent in the appeal Suit No. 7 of 1819 i.e. the minor or his guardian will transfer, cause a public sale, or otherwise dispose of the property under litigation, i.e. the Shevagunga

Zemindary –

Zemindary. Moreover in all the cases contemplated in the Regulation above quoted, attachment can only take place, in default of the production of due security, whereas in the present instance, no security has been demanded. The order for sequestration has been passed by your Court without calling upon the Respondent either to furnish security or to show cause against the attachment.

4thly That if it be true that in ordinary cases, attachment cannot be made of property the subject of an appeal Suit, where the Decree in the inferior Court has been passed in favor of the party already in possession, much less, it is submitted, is such procedure authorized when the property, as in the present instance, is so administered as to afford full

guarantee

guarantee against the misappropriation or Embezzlement of its proceeds, the Estate having with the Sanction of Government been placed for the benefit of the Minor Proprietor under care of the Court of Wards acting under Regulation V of 1804 & of the Collector of the District as their local Agent.

5thly That even under circumstances in which requisition of Security might properly be made, there is, it is believed, no precedent of such security having been required, & attachment ordered in default of its production, when the property in question was already under the care of the Court of Wards — is still less, it is submitted, is there any case on record, wherein as in the present instance, the Estate sequestered was not only under the care of that Court,

but

but the result of the litigation respecting it, as far as it had proceeded, had been to confirm & establish the title of the party hitherto in possession.

6th That the Zillah Judge of Madura after a full enquiry held in pursuance of your Court's instructions of 15th February 1847 declined in his Proceedings under date 2d August 1847 to order the attachment of the Shevagunga Estate pending the decision of the Suit No. 2 of 1845 then in progress, and that your Court upon appeal being preferred to your against the said order and after perusal of the miscellaneous Petitions presented by the Plaintiff and Defendant in the said Suit and the whole of the papers connected with the case, stated in your Proceedings

of

of 4th February 1848, were of opinion that it was neither necessary nor expedient to interfere with the order of the Civil Judge, and you accordingly confirmed the same. At the time when your aforesaid Proceedings of 4th February 1848 were held, the Shevagunga Estate was in the uncontrolled possession of its then Proprietor the late Zemindar Sreematoo Rajah Moottoovijiah Ragoonatha Gowery Vullabah Perea Oodea Tever, and the Suit regarding it had not been decided by the Zillah Court. If under such circumstances the sequestration of the Zemindary was neither necessary nor expedient, much less can such a measure be required now that the decree of the Zillah Court has passed in favor of the late Zemindar and that the Estate has in consequence of his death been placed under care of the

Court

Court of Wards on behalf of his minor son - Streematoo Rajah Moottoo Vezia Ragoo-nada Bodagooroo sawmy Perea Oodia Taver-

7.th That your Court in your Proceedings of the 30th April 1849 have expressed your opinion, that the administration of the Zemindary by means of a Manager appointed under Section VIII, Regulation V of 1804, does not sufficiently provide for the security of the Property & of its revenues. It is however, submitted, that the conditions required from & restrictions imposed upon the manager of the estate of a disqualified Proprietor under the Regulation quoted, furnish ample guarantee for the due discharge of his trust - Thus the manager is obliged to give security for his personal appearance at any period of his management, to enter into a stipulated form of engagement for the due

administration

Sec. XI administration of the Estate under certain penalties which the Court of Wards are empowered to enforce to furnish Lists of all Property confided to him - to submit
Sec. XII annual Accounts of all receipts and disbursements, to pay Monthly the entire Sums
Sec. XIV received from the Estate to the Collector, by whom all authorized Charges of Management are to be defrayed - He is further
S. XV debarred from granting Leases for more than one Year, without the written consent of the Collector and from disposing of any part of the Property without the permission of the Court of Wards also obtained in writing - He is liable to removal from Office by the Court
Sec. XI. XXIV of Wards and to trial for misconduct. All surplus funds accruing from the
Sec. XVI Estate are to be invested by the Collector in the purchase of land or

in

in the Public Securities of Government, and no debts due to private Creditors can be discharged without the permission in writing of the Court of Wards. Sec XVII

In addition to the above tho' not required by the Regulation, the Collector furnishes an annual Report upon the Estate to the Court of Wards, who submit it with their Remarks to Government - This Report affords full information respecting the revenue or settlement of the year, the Collections realized & upon all matters connected with the Property & is accompanied with the Accounts necessary for the elucidation of the Subject. Practically at least, the surveillance exercised by a Collector as Agent to the Court of Wards over Property administered by a Manager is as close & effectual

as.

as if the same were under the Collector's Huzoor management.

8thly That if the arrangements explained in the preceding para have been deemed by the Legislature to afford adequate security for the due maintenance of the rights and interests of an incapacitated Proprietor whose title to his Estate is clear & undisputed, much more must they be considered sufficient to provide for the contingent rights and interests of a mere suitor for the Estate, whose claim has not and may never be made good. Had the title of the Minor Zemindar Streematoo Rajah Moottoovezia Ragoonada Bodagooroosawmy Parea Oodia Taver remained unquestioned, the provisions of Regulation V of 1804 would have been held to furnish ample means for the proper administration of his Estate. The

measures

measures which would have sufficed to protect his interests must surely be enough to guard the interests of the Appellant in No. 7 of 1849 a claimant and hitherto an unsuccessful claimant of the Property.

9th That Your Court have indeed stated in your Proceedings of 7th June 1849 that the intent of your orders of the 30th April 1849 was not to interfere with the orders of the Court of Wards passed in conformity with Regulation V of 1804, but it does not appear how after the Estate has been attached, and thereby virtually been taken out of their charge, the Court of Wards can still continue to pass orders under that Regulation, or to exercise the powers which devolve upon them in virtue of its provisions.

That

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10thly That the primary object of the institution of the Court of Wards, as set forth in the preamble of Regulation V 1804, was "the due preservation of "the property of incapacitated persons which was to be attained by the means and thro the Agency prescribed in the provisions of that enactment - that this is the only purpose for which the Court of Wards is authorized by Government to take upon itself the responsibility of interfering with private property - that if such property be sequestered and removed from the administration of the Manager acting under the provisions of Regulation V 1804 to the immediate charge of the Collector, the Agency for the management of the Estate prescribed by the Regulation becomes altogether changed,

the

the provisions of the Regulation, espe-
-cially Sections VII, IX, X, XI, XII, XIV, XV
XXII, XXIII, XXIV, XXVI cease to have effect.
An estate in such case can no longer be
said to be under the care of the Court
of Wards and the Collector as their agent,
but to be under the charge of the Collector by order of the Civil Court
subject to the general control of
the Board of Revenue.

11. That if the Court of
Wards are thus divested of the care
of the estate, the exercise of the
powers devolving upon them under
Regulation V 1804 must be limited to
the mere guardianship of the Minor,
but the guardianship of the Minor
appears to be only an incident of the
trusteeship of the property, and if

the

the Court of Wards cease to hold that trusteeship, it seems doubtful whether they could interfere further with the Minor and his affairs, and whether on their removal by process of Court of Law from the charge of the estate, their guardianship of the Minor must not drop also.

12. That even supposing the Court of Wards could retain any power over the Shevagunga Zemindary, the position of that Estate partly under charge of the Court of Wards and partly under the attachment of a Civil Court is altogether anomolous and likely to lead to Collisions between the judicial and Revenue Authorities, and to the issuing of inconsistent, if not contradictory orders. Thus to give only one instance by Section XVII Regulation V 1804 all debts due by, or

incapacitated

incapacitated proprietors to private Creditors may be liquidated by Collectors on the permission, in writing, of the Court of Wards. Now that the Shevagunga Estate is under attachment, it is probable that the Court of Sudr Udalut will require to be consulted before any such claims or at least those to a considerable amount are discharged and it is possible that the two authorities may take different views in regard to the validity of such claims and the mode in which they are to be dealt with.

4. For the reasons aforesaid I am instructed respectfully to move on behalf of the Court of Wards, that your

Court

Court on consideration of the arguments above advanced and the position of the Sheevagunga Zemindary will withdraw the attachment of that property imposed by your Courts orders of 30th April 1849 and will allow that estate again to pass into the sole and undivided charge of the Court of Wards to be administered by them thro' the agency and by the means prescribed in

in Regulation V 1804, and in

conformity with the pro-

visions of that enact-

ment - which course, it is

submitted, will fully secure

the efficient management

of the estate and amply

provide for the rights and

interests of the parties

now engaged in litigation

on account of it

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(5)

Extract from the Proceedings of the Sudder Udalut under date the 8th October 1849.

Read miscellaneous Petition presented on the 27th September 1849 by the Government Vakeel Gholam Moortooza on behalf of the Court of Wards.

1. The Court of Wards refer to the Proceedings of the Sudder Udalut under date the 30th April 1849, in which it was ordered that the Zemindary of Shevagunga in the District of Madura, at that time under care of the Court of Wards according to the Provisions of Regulation V of 1804 for the benefit of the minor Proprietor Streemathoo Rajah Moottoo Vezia Ragoonadha Bodagooroosawmy Parea Oodia Thaver, should be attached and placed under the management of the Collector of the District; and the Court of Wards enter into a lengthened exposition of

of the considerations which lead them to view that order as both generally inexpedient and unnecessary, and likewise contrary to Law.

2 The Court of Wards conclude by requesting the Sudder Udalut to withdraw the attachment of the property, and to allow the estate again to pass into the sole and undivided charge of the Court of Wards, to be administered by them through the Agency and by the means prescribed in Regulation V of 1804 and in conformity with the provisions of that enactment.

3 The Court of Sudder Udalut observe that their orders for the attachment of the Property were issued inconsequence of a representation made to them that the Estate was being wasted and injured; while at the same time it did not

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not appear that the control exercised by the Court of Wards was sufficient to preserve it from injury. It now appears that the control exercised by that Court is complete and amply sufficient to preserve the Estate from injury or mismanagement; and it is possible that the orders of this Court respecting the attachment of the Estate may lead to confusion and even to collision between the Revenue and Judicial Authorities. This being the case, the Court of Sudder Udalut resolve to recal their order of the 30th April 1849 and to instruct the Civil Judge of Madura to remove the attachment from off the Estate, and at the same time to advise the Collector of Madura that the Estate is placed once more under the exclusive control and management of the

the Court of Wards

Ordered that Extract from these Proceedings be sent to the Civil Judge of Madura, for his information and guidance

Ordered also, that Extract from these proceedings be sent to the Secretary to the Board of Revenue for the information of the Board.

(True Extract)

(Signed) J. H. Davidson
Register

To,

The Secretary to the
Board of Revenue

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Madura Civil Court.
Original Suit No. 1 of 1843.
Plff

Rajah Moodooverja Ragoonanda Bodagooroo Sawmy Peria Oodia Taver and on his demise his younger Brother Mootooverja Ragoonanda Gowroovullaba Peria Oodia Taver Zemindar of Shevagunga.

Vakeels 1st Yellappa Moodely & 2d Sivaramipillay

versus

Original Suit No. 4 of 1836 on the file of the late Southern P. C.

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Defendants.

1. Gowree Vullaba Taver
2. Moottoovadooga Taver
3. Nannasvaga Taver
& 4. Ramasawmy Taver

1st & 2d Deftts Vakeels 1st Teroomalingar & 2d Shama Row & Yendapully Kristna Row 3d & 4th Deftts Vakeels.

The Court in this Case has merely to decide whether the grant propounded be valid or not and may at once dismiss from its consideration the greater part of the Defendants pleading — all, that is to say, which seeks to support the Deed in question upon the ground that others of like nature have been executed for granting their existence they only prove others, save Deftt. to be in the same predicament and all also which would suggest that Plffs father or himself may have, and have, by direct and indirect admission of the validity of the Deed, given to it any force or legality which it did not otherwise possess because it is evident that if the Deed as executed by the original grantor with every desire to make it good if he could be not valid neither would the alleged admission of his Successors make it so. In short if the said grantor effectually did what he is admitted by all parties to have earnestly ... to do and to have done as far as in him lay the thing ... doubtless been done, and the question wo... nor would there be occasion to urge that ... had admitted its validity. Their assent ... Case equally immaterial. While if on ... grantor either could not, or did not the... a grant, it is absurd to say that tho... was vain and futile. Yet as his Su...

ed by two Mullises. Having thus stripped the case of the ... matter under which the main and only point really had been buried the Court approaches the consideration of question "was the Deed before it, worth any thing at the time its execution, and if so what?"

The Deed it is to be noted, was executed in November 1818. Now in what position was the Grantor then? Under what tenure and subject to what restrictions did he hold the Zemindary? Clearly under the Sunnud i. Mulkeut i Istimrar dated 22d April 1803 and the provisions of Regulation XXV of 1802.

The words of the Sunnud, as far as it effects the present question are as follows.

Para 7 "You shall be at free liberty to transfer, without the previous consent of Government, or of any other authority, to whomever you may think proper either by Sale, Gift or otherwise your proprietary right in the whole or in any part of the Zemindary. Such transfers of your land shall be valid, and recognized by the Courts & Officers of Government, provided they shall not be repugnant to the Mohammedan or the Hindoo Laws or to the Regulations of the British Government but unless such sale, gift or transfer shall have been regularly registered at the Office of the Collector and unless the public assessment shall have been previously determined and fixed on such separate portion of your estate by the Collector, such sale, gift or transfer shall be of no force or effect whatever, nor shall such transaction exonerate ... from the payment of any part of the public land tax assessed ... mindary previously to such transfer, but your ... ll continue to be answerable for the total ... ine manner as if no such transaction had ...

... the event of the sale of any part of your ... tion of the assessed of the Assessment ... ree of a Court of Judicature or in the ... t of your Zemindary by Gift, Sale or

otherwise you shall furnish the Collector with true and entire accounts of your entire Zemindary and of the portion of your Zemindary to be so separated for a period of not less than 3 years preceding such sale or transfer in order that the due proportion of public revenue may be fixed thereon. × ×

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And by Section VIII Regulation XXV of 1802 it is enacted that such transfers may be valid provided that they be not contrary 1st to Hindoo Law 2d to the Regulations of Government. Here are two prescribed and indispensable requisites for validity failing either of which the transfer must necessarily be null and void. Accordance with Hindoo Law is as insufficient in itself, as a compliance, in other respects, with the legal requirements of the Regulations would be, if applied to a case contrary to that Law. It is immaterial therefore and the Court may consult its own convenience in selecting which of the two tests it shall first apply to the matter before it. And first then was the Deed in question made and executed in conformity with the Regulations of Government? and the stipulation of the Sunnud. In the Opinion of the Court it was not for by Section VII Regulation XXV of 1802 Zemindars are declared absolutely incompetent without the previous consent of Government, to make such appropriations and that such previous consent was in this case obtained is not, and indeed cannot in the place of positive evidence to the contrary be pretended. The transfer Deed being executed in 1818 and the conditional and qualified permission given to the Register to act upon it being only conveyed by the letter of the Board of Revenue 10th September 1821 so that even if that be termed a "consent" it was a subsequent and not a previous consent as the Law requires and the Sunnud contemplates.

Such was the doctrine held by the Court of Sudr Adawlut in their Decree No. 6 of 1821 wherein in a very similar case, they reversed the Decree of the Northern Provincial Court which had affirmed

affirmed the validity of such a Grant in perpetuity as forms the subject of the present Suit.—

Having thus shown one of the requisites of a valid transfer to be wanting, it is unnecessary to enter upon the discussion of the other viz. whether if all other requisites had been present there existed any thing in the relative positions of the parties, as Hindoos which would have invalidated the Deed.—

Under the above Considerations therefore the Court feels bound to declare the Deed under which the Defendants hold the lands in question to be of no force or effect whatever and never to have had any but a limited effect - that is to say, it might have been, and was operative during the life of the Original Grantor, upon the equitable principles laid down by the Zillah Court of Chicacole in its Decree No. 692 of 1824 and emphatically pronounced to be Correct by the Sudr Udalut in their proceedings of the 27th September 1841 where in the case of a Zemindar seeking to resume his own Grant, it was held binding on him "during his own life interest in the Zemindary" provided it did not affect the Revenues due to the State.—

Upon the death of such Original Grantor it naturally fell to the ground and it was optional with the Pltffs. father to resume the lands he did not do so or Circumstances prevented him from so doing - as the Plaintiff avers they have him up to the period of instituting this Suit. The Court is of opinion that these Circumstances do, as urged by him, constitute a sufficient reason, for no steps being taken in the matter at an earlier period. it thinks however that under the peculiar Circumstance of the Case it is equitable that the resources of the Zemindary should be taxed with the expenses of the measures taken (on its own side) to recover this portion of the estate, and therefore in awarding that the Defendants do restore to plaintiff the Villages &c. as specified in the Plaint orders that all parties pay their own Costs.—

Given under my Hand this 22d day of February 1847
Signed and Sealed this 10th day of April 1847
Term for Appeal expires on the 10th day of July 1847

(Signed) C. R. Baynes
Civil Judge

Decree

of the Civil Court of

Madura in

O.S. No. 1 of 1843 of its file

Shevagunga

[illegible]

Sub Division

Decree of the Court of Sudr Udawlut

Before the Civil Court of Madura - Orig. Suit No 1 of 1843.
Court of Sudr Udawlut - - - - - Appeal Suit No 53 of 1847

Appellant.	Vs	Respondent
Gouree Vullaba Tever.		Streemathoo Rajah Moottoo Vejia Ragoonada Bodagooroo sawmy Perria Oodia Tever El-dest Son (minor) of the late Zemr. of Shevagungah by his Guardian Cootti Iyengar.
Vakeel		Vakeel
T. Rama Chendriah		Goolam Moortoozah

[L. S.]

Signed C. P. Thompson
" W. A. Morehead.

The following Extracts from the Decree passed by the Civil Court of Madura will explain the nature of this Suit.

"This action is brought to try the validity of a "certain Deed or Grant made and executed on the 12th Novr. "1801 by the then Zemindar of Shevagungah in favor of "Moodoo Ramalinga Tever, his Son by a woman of inferior "Caste, whereby he designed and purposed to alienate, and as far "as in him lay, did alienate and make over in perpetuity to "the said Moodoo Ramalinga Tever and his heirs a certain "part and portion of the aforesaid Zemindary, that is to say "Chuckanoor and Twenty Eight other Villages paying an annual

"Rent of Rupees 7363 - 15 - 6, and yielding an
"produce amounting to Rupees 10,335 - 13 - 2."

"The Plaint setting forth the grant, argues that
"it is invalid as being contrary - 1st to Hindoo Law - 2d to
"the Custom of the County and usage in such Cases - 3d
"to the terms under which the Zemindary is held of the
"State, as expressed in the 7th paragraph of the Istimarar
"Sunnud; and 4th as opposed to Sec: VIII Reg: XXV of 1802.

"First and Second Defendants in Answer maintain
"the grant to be valid - 1st on the ground that it is not con-
"trary to Hindoo Law, in as much as the Zemindary was
"not the inheritance but the acquired property of the Common
"ancestor of themselves and the Plaintiff - 2d that it is not op-
"posed to, but in accordance with, the custom and usage
"in such cases, of which they submit instances to the con-
"sideration of the Court. 3d that it is not contrary to,
"but in accordance with, the 7th 8th and 9th Clauses of
"the Istimarar Sunnud under which the estate is held
"of the State. 4th that it is not opposed to, but in
"accordance with, the provisions of Section VIII of
"Regulation XXV of 1802. 5th that the Right of Defendant
"has been formally and repeatedly admitted by the Plff.
"and his father, and 6th that their long enjoyment bars
"this Action for Recovery under Sec: XVIII Reg: II of 180
2.

The Civil Judge being of opinion that "the
"deed in question was not made and executed in con

conformity with the Regulations of Government and the Stipulations of the Summuds, Decreed that the Defendant should restore to the Plaintiff the Villages as specified in the plaint, and that the parties should pay their own costs.

3. The 1st Defendant appealed, and urged that the 4th Clause of the Istimrar Summud clearly entitled the proprietor of the state, to make the assignment he did; that Section VIII. Regulation XXV of 1802 gives also a similar permission, that the course laid down in the 8th and 9th Clauses of the summud and Section IX of the above law were scrupulously followed, and that the estate being self acquired, the proprietor was at liberty to dispose of it as he felt disposed, and that he, Appellant, is the legitimate and not the illegitimate son of his father.

4. The Appellant further observed that the decisions quoted by the Civil Judge in support of his Judgment are inapplicable to this Case, and that Section XII Regulation XXV. of 1802 refers to lands made over to religious and other purposes free of tax and to the resumption of Lakheraj lands, and not to the transfer of Malgoozarry lands, which when transferred bear an assessment proportionate to the assessment of the whole estate.

5. The Respondent answered that the Appellant was the illegitimate son of the original proprietor

and therefore the assignment of the land to him illegal, and altho' the Registry of the same was allowed by the Board of Revenue, yet in giving their sanction to the measure they remarked that the mere Registry would not give the transfer validity and that the parties concerned might, if they thought proper, apply to the Courts for redress.

6.— The Respondent goes on to say that the late proprietor of the Zemindary having alienated several Villages of the estate, some to Brahmins and others to Pagodas, the number had been reduced to 800, the collection on which was more than four lacs a year, and that the separation of 29 Villages yielding a much higher Revenue than stated by the App[ellant] in favor of an illegitimate son, is unjust to the legal heir of the late proprietor.

7.— This case rests on the legality or otherwise of the transfer of Villages in question.

8.— The former Zemindar held the estate under one Istimrar Sunnud granted to him by Government in 180[..] In the 7th Clause of that Sunnud it is declared "You shall be at free liberty to transfer, without the previous consent of Government or of any other Authority, to whomever you may think proper either by sale gift, or otherwise, your proprietary right in the whole or in any part of your Zemindary, such transfers of your lands shall be valid, and recognized by the Courts and Officers of Govt. provided they shall not be repugnant to the Brahmin[..]

the Hindoo Laws, or to the Regulations of the British Government but unless such Sale, gift or transfer shall have been Regularly Registered at the Office of the Collr and unless the public assessment shall have been previously determined and fixed on such separate portions of your estate by the Collector, such sale, gift or transfer, shall be of no legal force or effect, nor shall such transaction exonerate you from the payment of any part of the public land tax assessed on your entire Zemindary previously to such transfer, but your whole Zemindary shall continue to be answerable for the total land tax in the same manner as if no such transaction had occurred -

Q - Section VIII Regulation XXV of 1802 is precisely the same as the above sd. Clause, and the Appt. argues that by the terms of the Sunnud, and the Law, his Grand father was fully authorized, the course therein laid down being strictly followed, to make over to his (appellant's) father the Villages in dispute and the Court of Sudr Udawlut are of opinion that he was -

R. The Court submitted a question for the opinion of their Law Officers whether an alienation, such as made by the Original proprietor of the Zemindary in the Case under consideration, was contrary or not to Hindoo Law, and they replied that it was not, provided the portion so alienated did not exceed that given to the legitimate

tion, if he had one. By a reference to the Summary Estimate filed in this Case it appears that the Zemindary originally comprised 2033 Villages and now yields as the Respondent admits, more than four lacs of Rupees a year. The transfer, therefore of 29 Villages producing a net annual income of Rupees 2971 is not in the opinion of the Court more than the appellants relationship to the proprietor entitled him to receive or the proprietor to grant.

11. The Civil Judge in his Decision in this Case observes that the Deed in question was not made and executed in conformity with the Regulations of Government and the Stipulations of the Sunnuds" for "by Section XII Regulation XXV of 1802 Zemindars are "declared absolutely incompetent without the previous "consent of Government to make such appropriations. The Court of Sudr Udawlut would however observe that the Civil Judge has fallen into a singular error in applying that Section of the Law to the question at issue in this action. That Section declares that proprietors shall not appropriate any part of an Estate permanently assessed to any purposes by which it may be intended to exempt such lands from bearing their portion of the public tax, unless the consent of Government shall have been previously obtained for that purpose.

9. . . In the Suit now under consideration the Villages transferred to Appellant by the former proprietor were assessed with Revenue by the Collector in accordance with the principle laid down in Section IX and therefore Section XII is clearly not applicable.
13. . . The Civil Judge has likewise misunderstood the purport of the Courts Decree No. 6 of 1821, as well the Courts proceedings of the 27th September 1841. In Suit No. 6 of 1821 the Village the subject of that action had been transferred to the Defendant in lieu of wages free of tax, and the Court decreed "that such alienations were voidable on the determination of the interest of the person who makes them," and the proceedings on the 27th Septr. 1841 declared the same principle.
14. . . The Court reverse the Decree of the Civil Judge and adjudge the Plaintiff Respondent to pay all Costs.

Given under our hands and the seal of the Court this 5th day of Novr. in the year our Lord 1849.

By order of the Court of Sudr Udawlut.

Read in Court this 10th day of Decr. 1849.

It is hereby Certified that the value of the matter in dispute amounts to the sum of Rs. 10,335-13-2 and the period for appealing will expire on the 10th June 1850.

Signed G. J. Beauchamp
Register.

Decree

of the Sudr Udawlut

In R. S. No. 5 of 1847

Dated 5th Nov. 1849

The Vat Dinnar Esqr.

Vs.

The Shrayungah Esqr.

Revenue Department (2)

Extract from the Proceedings of the Court of Wards dated 3d June 1850

Read letter from the Collector of Madura dated 15th April 1850

(Here Enter No. 38)

Read also letter from the Collector of Madura dated 19th April 1850

(Here Enter No. 42)

In the original Suit before the Civil Court of Madura where the present Minor was Plaintiff for the recovery of 29 Villages granted by his Ancestor to an illegitimate Son the Judge considered that there were only 2 questions to be taken up viz 1st Was the transfer according to Hindoo law? and Secondly was it in accordance with what is required by the Regulations? He was of opinion that the requirements of the Regulations were not fulfilled, and that therefore the transfer was invalid and that there was no

necessity

necessity for going into the question of Hindu Law. The point in which he considered the Regulation was not observed was this that Section XII of Regulation XXV of 1802 required the "previous consent" of Government and such had not been obtained a judgment was therefore given in favor of Plaintiff.

On appeal to the Court of Sudr Adawlut they decided that all that the Regulations required had been done - that "previous consent" was not necessary and that it was required by the Section and Regulation quoted by the Civil Judge only in cases where it was intended to grant land exempt from public tax whereas in this case the alienated villages paid the proportion of Peshcush fixed by the Collector -

To satisfy themselves on the other material point, viz. the conformity with Hindoo Law they submitted a question to the Pundits of which the Court of

Sudr

Wards has been furnished with a Copy. It is as follows. A Zemindar having himself acquired the Zemindary, transfers during his life by a Deed of Gift a certain portion of the aforesaid Zemindary to his illegitimate Son? Is such Deed of Gift contrary to the Hindoo Law? The Pundits replied that it was not: provided that the portion so alienated did not exceed that given to the legitimate son. and taking into consideration the relative value assigned by the Collector to the 29 Villages the Court were of opinion that the transfer was by no means disproportionate.

The Collector in his letter of 15th April 1850 informs the Court of Wards that the Civil Judge had notified to the Sudder that the Section III quoted by him was an oversight for Section VIII of Regulation XXV of 1802. but the Court of Wards observe that Section VIII in no way meets the sole reason that the Civil Judge gave for decreeing in favor of the Plaintiff. It is in fact the very Regulation

and

and Section (agreeing exactly with para 7 of the Summary) that the Court of Sudr Adawlut adduce to show that "previous consent of Government" was not required –

As far then as the Civil Judges decree is concerned the Plaintiff in that suit has nothing whatever to fall back upon for the Judge did not not take up the question of Hindoo law at all –

With regard to the 4 points urged in the proposed special Appeal the Board consider 3 of them to be futile

I The appeal to the Sudder was by no means rendered irregular by 3 of the original Defendants being no longer personally interested. The question was a general and well defined one – Viz. was such a transfer legal or not? and the result would affect the Appellant just as much as if the others had appealed with him –

It

II It seems frivolous to assert that the Regulation XXV of 1802 referred to had no reference to such a zemendary as Sheragunga - neither do the 2 Decrees referred to affect the present case. In both instances the claim was to succession to a Mootah and was a question of "Inheritance" not of "Partition" during life time -

The IV point cannot be urged with any effect - It appears from the Records of the Boards Office that in consequence of a Petition given in at the time the value of the transferred villages was carefully revised before the Registry was sanctioned and even had the Statement been incorrect the time for appeal (10 years as allowed in Regulation I of 1819) has long elapsed -

The III point is one which Mr Parker appears to consider worthy of consideration namely as to whether the question to the Pundits might not have been fairly put in such a form as to have elicited

any

an answer favorable to the Appellant.

The question has already been quoted and to the Court of wards it appears to set forth the real state of the case. They cannot suppose that any Court would allow it to be put in the form desiderated by the appellant in which the point to be proved is at once assumed - and the fact of the transfer having taken place during the Zemindar's _life time_ seems to shut out any argument founded on _inheritance_ of the property of deceased parents.

Whether the Zemindars family were undivided or not, he was not barred so the Court believe from transferring by Gift a portion of his self acquired property nor does it appear to the Court that the Sudder Adawlut could in their question to the Pundits have designated it in any other way - That Court in appeal Decree

of

of 17 April 1837 (where the widow of the former Zemindar claimed the Estate) gave it as their opinion that the property being conferred by Sunnud Istimrar was self acquired property and this fact has not as yet been disputed neither does it appear from the enclosure to the Collector's letter of 19th April 1850 that the Zemindar acknowledged to have acquired the Estate by virtue of Aparcenership -

Again it may be true, as a general Custom that the lower Castes are (as stated in the above Enclosure) Slaves to the Zemindars but that rule cannot be of such force as to make a breach of it actually illegal - The Zemindar in his Rejoinder now referred to was claiming certain low caste people as his Slaves and argued that they had no right to Power or Authority - this cannot be pressed to mean that the Zemindar was prohibited by Hindoo Law from granting villages to such individuals if he thought proper. That

he

he did not consider himself so bound is clear from his Urzee that the Collector of Madura forwarded to the Revenue Board 23^d August 1831 wherein he mentions several precedents.

The Court of Wards are therefore of opinion that the Guardian has not shown good and sufficient cause for burdening the Minor's Property with the heavy expenses incident on an appeal to her Majesty in Council.

(A true Extract)

W. H. Bayley
Secretary.

To,
R. D. Parker Esq.
Collector of Madura

135

June 28

Revenue Department

Extract from the Proceedings of the Court of Wards dated 20 June 1850.

Read letter from the Collector of Madura dated 13th May 1850, requesting the Court to instruct the Government Vakeel to move the Court of Sudr Udalut to cancel their verbal permission to Ramaseraya Taven, Brother of the late Zemindar, to put in an Answer to the Suit of Ungamootoo Nachear.

(Here enter No. 62)

Ordered to be forwarded to the Government Vakeel, with the opinion of the Court that it appears to them the present Suit can only be between Ungamootoo Nachear and the

the Minor Zemindar in possession.
If the suit is decided in favor of the former, Ramasevoja Taven, who grounds his claim on the illegitimacy of the Minor, can have nothing to say; but if it is given in favor of the latter, he can of course bring his claims forward.

(A true Extract)
(Signed) W. H. Bayley
Secretary Court of Wards

To
Gholam Moortoza Khan Saib,
Government Vakeel,
Sudr Udalut

(A true Copy)
W. H. Bayley
Secretary Court of Wards

For the information of the
Collector of Madura

Compd.
A Newbiggin

Revenue Depart t.

Extract from the Proceedings of the Court of Wards dated 11th July 1850 -

Read the following

To
The Court of Sudder Udawlut

The Arzee of Goolam Moortooza, Government Vakeel on behalf of Court of Wards -

The Court of Wards transmitted to me an Extract from their Proceedings dated 20 June 1850 - in the first part of which the letter from the Collector of Madura dated 13th May this year to that Court is quoted, and in the latter part instructions to me. In the above Collector's letter it is stated that

"I have the honor to bring to "the notice of the Court of Wards "that the Guardian of the Minor "Zemindar

"Zemindar of Shivagungah has reported
"to me that Namasevoya Taver, brother
"of the late Zemindar, has obtained
"the verbal permission of the Suddr
"Udawlut to give in an answer
"to the Appeal of Ungamootoo
"Nachear. He was desired, I am
"informed, to present it before the
"adjournment of the Court which
"he failed to do, but expects that
"it will be admitted when the Court
"reopens."

"It appears to me that
"Namasevoya Taver can have
"no concern in the Suit during
"the life time of the Minor and
"his brother on the ground of his
"being the undivided brother of
"the late Zemindar, granting that
"he is such, and that to admit
"him to defend the appeal
"because he alleges that the
"marriage of the late Zemindar
"with the Mother of the Minor

"was

"was illegal, is prejudging
"that question. If the Court
"take this view, I think it im-
"portant that they should instruct
"the Government Vakeel to move
"the Court to cancel their permission
"because it is currently reported
"that Namasevoya Taver and
"Ungamootoo Namhear have
"combined and I fear that
"the former will endeavour to
"protract the suit and to betray
"the cause to the latter"

"The Suddr Udawlut would
"seem to have originally deemed
"Namasavoya Taven incompetent
"to plead, as they sent him no
"notice of Appeal"

In the latter part of the
Proceedings of the Court of Wards,
it is stated that

"Ordered to be forwarded
"to the Government Vakeel, with the
"opinion

opinion of the Court that it appears to them the present Suit can only be between Ungamootoo Nachear and the Minor Zemin-dar in possession. If the Suit is decided in favor of the former, Namaseeoya Taver who grounds his claim on the illegitimacy of the Minor can have nothing to say, but if it is given in favor of the latter he can of course bring his claims forward.

I therefore pray on behalf of the Court of Wards that the Court will take into considera-tion the above circumstances and cancel their orders granted to Namaseeoya Taver to prefer his answer.

1st July 1850 (Sigd in Tamil) Goolam Moortooza Government Vakeel

To

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Revenue Department

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Extract from the Proceedings of the Board of Revenue dated 5th August 1850.

Read the following

To, W. H. Bayley Esqr.
Secretary to the Court of Wards.

An Arzee from Goolam Moortooza Government Vakeel in the Court of Suddr Adawlut.

I herewith enclose a true transcript on common paper of the order of the Suddr Court dated 25th of this July on an Arzee No. 190 of this year presented by me on behalf of the Court of Wards to the said Court, requesting that their order issued to Namasevaya Taver to give in his answer in the appeal Suit No. 7 of 1849 in the file of the said Court may be cancelled.

For your information

26th July 1850. (Signed) Goolam Moortooza
Govermt. Vakeel

(A true translation)

(Signed) T. Streenavasen
Translator

Extract

Extract from the Proceedings of the Sudr Udalut under date the 25th July 1850:

Read miscellaneous Petition presented on the 1st July 1850 by Goolam Moortoozah Government Vakeel on behalf of the Court of Wards.

(Here enter S. M. P. No. 190 of 1850)

The Vakeel submits an Extract from the Proceedings of the Court of Wards under date the 20th June 1850 containing Copy of a letter from the Collector of Madura in which that Officer adverting to a report made to him by guardian of the minor Zemindar of Shevagungah to the effect that Namaseroya Taver brother of the late Zemindar has obtained the Verbal permission of the Sudr Udalut to give in an Answer to the Appeal of Ungamootoo Nauchear suggests that the Court of Sudr Udalut should be moved to cancel their permission and observes that "the Sudr Udalut "would seem to have originally deemed Namaseroya "Taver incompetent, to plead, as they sent him "no notice of Appeal."

This letter the Court of Wards have ordered to be forwarded to the Government Vakeel "with "the opinion that it appears to them the present "Suit can only be between Ungamootoo Nauchear "and the minor Zemindar in possession and that "if the Suit is decided in favor of the former, "Namaseroya Taver who ground his claim upon "the illegitimacy of the minor, can have nothing "to say, but if it is given in favor of the latter "he can of course bring his claims forward."

The

The Court of Sudr Udalut observe that Namaseroya Taver is a party to the suit to which the Court of Wards refer having been included therein by the Plaintiff Ungamoottoo Nauchear as a Defendant in the original suit was a Respondent in the appeal and that therefore he is by Law entitled to file an answer to that appeal.

The omission to issue a notice of the appeal to Namaseroya Taver to which the Collector adverts was entirely accidental cannot in any way interfere with the privilege of Namaseroya Taver to file his answer so long as the course prescribed by the Regulations in respect to the filing of his pleadings is observed.

The permission of the Court was granted in the usual course on the application of the 2d Respondent's Vakeel for an additional period to enable him to file his answer and on the 1st Instant that answer was filed.

The Court of Sudr Udalut are precluded from complying with the prayers of this Petition which is accordingly dismissed.

Ordered that Extract to the Government Vakeel on his application.

Ordered to be communicated to the Collector of Madura with reference to his letter dated 13th May 1850.

A true Extract

W. H. Bayley
Secretary

To, R. D. Parker Esqr.
Collector of Madura.

August 20/50

15th July 1850

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To

W. A. Bayley Esqr

Secretary to the Court of Wards -

The Urzee of Goolam Mootooza
Government Vakeel to the Sudr Court
Madras -

The letter of the Collector of Madura dated 25th June last about the death of Angamootoo Nachear who was the appellant in Suit No 7 of 1849 filed in the Court of Sudr Adalut has been forwarded to me upon this I personally brought the subject to the notice of the Court on the 8th July 1850. In consequence of this report the Court passed an order dated 15th July 1850 directing in the case of Angamootoo Nachear leaving any heirs that they be served with a notice to the effect that they should appear before the Court either in person or by Vakeel within the period of six weeks and proceed with the suit then pending or in default that the said suit would be thrown

out

ourt - Copy of this order I beg to enclose

18th July 1850 (Signed) - Goolam Moortooza
Govt Vakeel

Extract from the Proceedings of the Sudr Udawlut under date the 15th July 1850 -

In Appeal No 7 of 1849

Ranee Angamootoo Nachear (Pauper) Appellant

Versus

Shreematoo Rajah Moottoo Vizia Ragoonada Booda Gooroosawmy Pareya Oodia Tavar by his Guardian Coottee Josyer.......... Respondent

The Respondents Vakeel Goolam Moortooza intimates to the Court the death of "Ranee Ungamootoo Nachear" the appellant in the above appeal -

The Court direct that the usual process be issued thro' the Civil Judge of Madura, calling upon the heir or heirs of the deceased appellant to appear in this Court either in person or by Vakeel for the purpose of conducting the Appeal within six weeks from the date of service, in default of which judgment of non suit will be passed -

To

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20th July 1850

(9)

To

W. H. Bayley Esqre
Secretary to the Court of Wards

The Urzee from Goolam Moortooza the Government Vakeel in the Court of Sudder Udawlut

I perused the Copies of the letters from the Collector of Madura dated 30th April and 18th May last, and their accompaniments transmitted to me with the Boards' Proceedings dated 20th and 24th June with regard to the Urzee presented to the Sudder Court on behalf of Angemootoo Natchear on the 18th of March last, as well as the Copy of the Urzee, and prepared a draft of the answer in Tamil language according to the directions in the above Proceedings and enclose it herewith with a true translation in English, and I will abide by your orders on the Subject

As I thought that the matter about the middle of the 7th Para, the 9th Para certain portions of the 10th do together with 11th 12th and 13th Paras of the Collector's letter dated 30th April, and certain circumstances in the last parts of the 5th and 11th Paras of the Collector's letter dated 18th May are unnecessary, I have omitted them in the draft of the answer. The sum of Rs. 58-0-0 referred to in the 5th Para of the above letter dated 18th May is not entered either in the Statement No. 3 referred to in the said para or in any other statements, and I therefore deem it proper to omit the words referred to in the accounts of receipts and disbursements No. 5 from the 11th para of the draft of the answer. I therefore submit this for your consideration and modification of that part as you deem proper.

10th July 1850. (Signed) Goolam Inortooza.
Govt. Pakal

(True Copies)

W. H. Bayley
Secretary.

Compd. [illegible]

170. [illegible]

R

Madura Subordinate Court Decree

Subordinate Court Original suit No. 35 of 1849

Streemadoo Rajah Moodooveejia Ragoonada Gowery vullaba Peria Oodia Taver Zemindar of Shevagungah. And on his demise his son and heir, Rajah Mootoo veeja Ragoonada Bodagooroosawmy Peria Oodia Taver (a Minor)

By

His guardian Cooteejoseyer

versus

1 Sabapathy sastry, 2 Annundanarrayana Oodyar, 3 Appawoodyar, 4 Soobien, 5 Soobasastry, 6 Aroonachala Royer, 7 Soobajoseyer, 8 Sooba Royer, 9 Soobaraya sastry 10 Ummony Ummal, 11 Ramasawmy Iyer, 12 Soomasoondramien, 13 Soondramien, 14 Soondravadanial, 15 Sungely kone, 16 Peria Caroopen, 17 Causin, 18 Peria Caroopan, 19 Chinnanen, 20 Periapyel, 21 Natchee appen, 22 Paramathen (deceased his widow and his heir Veerayee, 23 Sungely kone, 24 Samayen, 25 Coopananen, 26 Chinnaveerappen, 27 Veeranen, 28 Chinnanen, 29 Veerappen, 30 Peria Caroopen (deceased his widow and heir Chelloyee,) 31 Vellien

Umbalam, 32 Moneyagaren, 33 Moottoocaroopen (decease his widow & heir Coomauroyee, 34 Vellayen, 35 Peria caro 36 Veerabandien 37 Chockumputty Veeranen, 38 Malgalung 39 Moottoocaroopen Shervy, 40 Gooroonaden Shervy, 41 Veeraban Shervy an, 42 Andappen, 43 Veeranaen Umbalam, 44, Thory Naun an, alias Gowery Vulluba Tever zemindar of Padamattoor & 45 Chinnasawmy.—

Defendants

Vakeel for the Plaintiff Sunkara Sastry.

Vakeel for the 1st, 3rd, 6th, 8th, 11th, 13th, 24th, 28th, 31st and 34th Defendants Annasastry
No Vakeel for the other Defendants.

This is an action brought by the Plaintiff for a Decree to be passed directing the village of Pullanandel in Plaintiff's possession, comprising 30 Cheys of Nunjah & 60 Coorooc..uns of Punjah land, annually yeilding Rupees 1015 together with all the appertenances thereunto belonging to be appended to the Ain of the Shevagungah Zemindary without being restored to the Defendants from 1 to 13.—

1. Malatermanandel, Sudunghy, and Pullanandel, the hamlets of Canoor Village, were entered as ain in the Istemrar Account of the Shevagungah Zemindary, and were ever since attached to Canoor. The 1st Defendant his father and others who are the Inchageners of the neigbouring Dhurmasanem Villages, Caroongorlen and Pullanandel, sued the younger paternal grandfather of the Plaintiff and late Zemindar of Shevagungah in Origl Suit No. 44 of 1819 on the file late Zillah Court for the recovery of the above alluded Malatermanandel, as being the hamlet of the abovesaid Dhurmasanem villages.— A Decree was passed by the Register rejecting their claim stating

stating that it appertained to the Ain land is a hamlet of Carroor. This Decree was confirmed in appeal.

2. Again in 1819, a suit was brought by the same parties against the Zemindar for the recovery of 10 Cheys of Punjah land (boundaries given) belonging to the Caroongoolam and Puttanandel villages; but the suit was subsequently withdrawn.

3. The Zemindar in consequence of the wrongful possession which the Mohajenems had taken of Sudunghy and Puttanandel villages, sued them in Original suit No. 53 of 1823, for the recovery thereof with loss of produce - a decree was passed awarding to him the 10 Cheys claimed by the Mohajenems in 1819. Against the Decree, he appealed in appeal suit No. 3 of 1825 on the file of the late Provincial Court.

4. While this suit was pending before the Provincial Court, the Mohajenems offered to give up to the Zemindar the village called Puttanandel on condition of their being allowed to retain Sudunghy, and having remitted to them 660 and odd Chollekroons the arrears of Dhurmasunem tax due on account of the Villages of Caroongoolam and Puttanandal, also that they should receive a receipt for the same, and that the Zemindar should forego all claim of the loss of produce accordingly the father of the 1st Defendant, of the 2nd and the 3rd his grandfather the 4th and 6th Defendants the father in law of the 10 the grandfather of the 12, the father of the 13 the 4th Defendant and some others 17 in number (who were Respondents in appeal suit No. 3 of 1825) passed an agreement on stampt paper to the Zemindar (appellant) stipulating that he should enjoy the 10 Cheys before alluded to, as well as the Nunjah and Punjah lands appertaining to the village of Puttanandel, by annexing it, to the ain

din as a hamlet of Canoor Village - and that they
and others should enjoy the other lands in the bed of
tank of the said Puttanandel together with the village
of Sudunghy the Mohajenems having received a
Counter agreement from the Zemindar and
receiving from the Dhurmasunem Cutcherry
of the Zemindar a receipt certifying the payment
of 660 and odd Pons gave up the village Putta
nandel, and the 10 Cheys of land in the bed of its
tank.

5 Some of the Mahajenems who were Respondent
in appeal suit No. 3 of 1825, being females, and some
absent at different places, and unable to nominate
a Vakeel, no Razeenamah could be fasled conjoin
with the Zemindar in the appeal suit; But as he
looked upon the documents passed between him
and them as valid and as there was a clear
understanding that the agreement should
be acted up to whatever might be the
ultimate Decision

decision in the appeal suit the Zemindar took no pains to produce any proofs in support of his claim before the appeal Court, a Decree was consequently passed on the 24th July 1827 confirming the orignal one. The Zemindar preferred no special appeal nor did the Mohapunem apply for the execution of the decree

6 -- The Zemindar (appellant) died in 1824, some time previous to which the Zemindary was sequestered for the arrears of Peshkush, the village of Puttanandel and the 10 cheys of land in the bed of its tank, were also held under attachment. The father of the Plaintiff who was the successor of the Zemindar enjoyed the said village and lands for a period of 2 years when he allowed them a "Jeevethum" for the subsistence of the 45th Defendant and illegitimate son of his younger brother. Upon this, the defendants 1 to 14 petitioned the Collector of Madura regarding these lands under Regulation V of 1822 and their Petition

was

was dismissed - Six years after this the father of the 9th the husband of the 10th the guardian of the 13th Defendant and others instituted a Suit No. 12 of 1842 on the file of the late Zillah Court against the 14th Defendant & 32 others for the recovery of Puttanandel village and the 10 Cheys of land, this suit was filed when the Zemindary was under sequesteration and the Plaintiff was not included as a Defendant therein - The suit, was, after the pleadings had been filed, referred to the Hindoo Sudr ameen, but on certain representations made by the Collector of the District through the Government Vakeel, the suit was called up before the subordinate Court. before receiving Plaintiffs Answer The Plaintiff being put in possession of the Zemindary in 1844, was directed with reference to a motion dated 24th November 1844 to prepare an answer, but the subordinate Court before receiving Plaintiffs answer, decreed that Mahajunems were entitled

to

to the lands of the village claimed by them in Orignal suit No. 12 of 1842. The Civil Court with reference to Plaintiffs motion suspended the execlusion of this decree directing him to bring a regular suit for the recovery of the lands within two months.

103A

7 - - - The Plaintiff observes that with reference to the Circular order of the Sudr Udalut dated 15th August 1837 ruling that any compromise entered into a suit by the parties subsequent to a passing of the Decree will not be held valid unless represented to the Court, therefore any compromises entered into by parties previous to the passing of the Decree are valid and any decrees passed by the Court contrary to such agreements are invalid. In these circumstances the Plaintiff prays the Court for a Decree awarding to him the village of Puttanandel &c. as set forth in the preamble of the Plaint.

Filed 13th April 1847.

1. - - The 1st 3rd 6th 8th 11th 13th 24th 28th 31st and 37th Defendants deny the truth of the Plaint in

intoto. They state that the villages of Caroongoolam and Puttananandel were long held as Dhurmasunum by the Mohajunums together with 5 hamlets, sudunghy Puttanandel Malateroomanaindel, Keelateromanaindel and Venkitty. The Mohajunums at the request of the Carnatic Rular gave up the hamlet of Keelateroomanaindel to be annexed to the Ain Canoor village in return for certain remission in the Dhurmasunum tax.

2 - In fusly 1224, subsequent to the assumption of the Country by the Company the Collector instituted an enquiry regarding the Dhurmasunum villages on the 12th October 1814, the villages with their 5 hamlets (as mentioned in Para 1 of the answer) were entered in the monear registry accounts as Dhurmasunum villages; these were declared (with the exception of Keelatermanaindel ceded to the Zemindary) to be the property of Venkattasooba sastry, the father of the 13th Defendant & other Mohajunums.

3 - The late Zemindar Gowery Vullabatauer instigated by the 40th Defendant and others inimical

inimical to the Mohajenems, forcibly enjoyed the mailvarum produce of some of the lands of Mailateroo-manaindel as appertaining to the village ceded to him, and of the 10 Cheys of Coodepathee land in the bed of the tank of Puttanaindel. The Mohajenems filed a suit No. 44 of 1819 regarding these lands & another No. 45 of the same year on the file of the late Zillah Court regarding the lands Puttanaindal against the Zemindar a decree was passed in Suit No. 44 that the lands therein sued for belongs to the Zemindary and all the rest to the Dhurmasunem. as the land sued for in No. 45 had come into the possession of the Mohajenums, they withdrew the suit.

4 - A Decree was passed on the 31st Decemb 1834 in O S No. 53 of 1823 by the Zillah Court to the effect that the two villages Sudunghy and Puttanaindel were attached to the Dhurmasunem, and that the Defendants might bring a suit for the 10 Cheys of land regarding which the suit No. 45 of 1819 had been filed; but afterwards withdrawn. against this decree the Zemindar appealed as

as did the Mohajenems, but only against that part of the Decree which directed them to bring a suit for the recovery of the 10 Cheys of land - So much of the decree of the Zillah Court as declared the two villages to be Dhurmasnem was by the decree of the Provincial Court in A S No. 3 of 1825, confirmed the Mohajenems were directed to continue in the enjoyment of the 10 Cheys of land and the Zemindar, directed to bring a regular suit for their recovery.

5 - - - Whilst the 1st Defendant and others were on the enjoyment of the villages before mentioned The Defendants from 15 to 43 at the instigation of the 14th and with the assistance of the 44th and 45th Defendants forcibly appropriated the produce of the said Pattanandel. The 1st Defendant and others instituted a Suit No. 12 of 1842 on the file of the late Zillah Court for recovery of the lands of the said Village The Suit was refiled as Original Suit No. 7 of 1843 in the subordinate Court and

and a Decree passed on the 31st March 1846 that
Defendants 1 to 13 were the sole proprietors of the
land. Against this Decree no appeal was made.
The assertion made by the Plaintiff that the Mahajenums
have, during the pending of the said Appeal Suit passed
an agreement entitling him to the disputed village
& on that account, obtained from him some remission
of arrears of tax is totally false; the arrears were paid
by them to Zemindar and they were furnished with a
receipt for such payment. If the agreement had
really been executed, one or other or both of parties
would have made mention of it before the Provincial
Court. Any agreement entered into between parties
while a suit is pending has been ruled by the Sudr Udalut
to be invalid. The 14th Defendant and others, enemies
of the Mahajenums purchased the Stampt paper in a
fraudulent manner and fabricated this agreement
otherwise it would have been produced by the
Plaintiff

Plaintiff, or his elder brother Saving certain en[illegible] held before the Collector in 1837 regarding this village. The Plaintiff is not in possession of [illegible] village nor has he at any time enjoyed the produce thereof — Filed 1st July 1847

The Reply reiterates the claim of the Plaintiff to the land adding that one agreement was passed at the house of the 1st Defendant and a Counter one at the Palace of the Plaintiff.

Filed 12th August 1847

The Rejoinder of the 1st 3rd 6th 8th 11th 13th 24 28th 31st & 37th Defendants supports the answer, but contains no important additional matter.

Filed 11th September 1847.

The other Defendants allowed the Case to be tried exparte against them.

After the Plaintiff had filed lists of documents and witnesses this suit which was in pending before Hindoo Sudr Ameen in No. 27 of 1847 the Government Vakeel applied to the Ci[illegible] Court

Court to call up the suit and refer it to the Subordinate Court on the ground that the orignal Plaintiff was dead, and that the Zemindary to which the village sued for belonged, was under the management of the Collector subject to the Court of wards. The application of the Government Vakeel was complied with.

Plaintiffs Documents

1 No. 47. A Razeenamah agreement passed to Gowery vullaba taver the late Zemindar of Shevagungah by Venkatasoobien and 16 others Mahajenems of Caroongoolam, Puttanandel &c under date the 12th October of 1826. Wich refers to the decree in O S No. 53 of 1823 on the file of the late Zillah Court and of the appeal therefrom to the Provincial Court in appeal Suit No. 3 of 1825, and stipulates that he should enjoy heriditarily the Southern 10 Cheys of the lands in bed of the tank of Puttanandel village and the Punjah and Punjah lands within ~~certain~~ certain boundaries &c.

2 No. 79 An authenticated Copy of the answer put

put in by the 14th Defendant in O. S. No. 9 of 1843 on the file of this Court as 30th Defendant which among other circumstances, states that while the appeal suit No. 3 of 1825 was pending before Provincial Court the said 14th Defendant and other mohajenems had possess no strong proofs convincible of the attachment of the villages Vizt. Puttanandel and Sudunghy to the Dhurmasunum.

1st 3rd 6th 8th 11th 13th 24th 28th 31st and 34th Defendants Documents

1 No. 67. An authenticated copy monyem registry account No. 310 prepared by the Collector of this Zillah in October 1814 showing that Venkattasoob sastry father of the 13th Defendant and others are the mohajanums of the 7 Dhurmasunum villages including the disputed Puttanandel.

2 No. 68 Do- of a letter addressed by the Collector to the Zillah Judge of Madura on the 21st January 1824 stating that Sudunghy and Puttanandel are entered in the registry made in his office in 1814 as hamlets of

Caro...

Caroongoolam and Puttanaindel Dhurmasunem villages.

3 No. 69 Do. of the Decree passed in O S No. 53 of 182 on the file of the late Zillah Court under date 31st december 1824, nonsuiting the Plaintiffs (Zemindars) Claim to the two villages Puttanaindel and Sudungly but adjudging only the 10 Cheys of land in Puttanaindel sued for in O.S. No. 45 of 1819 to be delivered over to the Plaintiff by the Defendants together with the proportionate loss of produce ~~and~~ Costs &c.

4 No. 70 Do of Do passed in appeal suit No. 3 of 1825 on the file of the late Southern Provincial Court under date the 24th February 1827, affirming the original Decree of the Zillah Judge so far as regards the nonsuit against the appellant (Original Plaintiff) and reversing that part of it which awards to the appellant the 10 Cheys of land disputed in No. 45 of 1819

5 No. 71 Authenticated copy of the Decree passed in O. S. No. 12 of 1842 on the file of the late Zillah Court or No. 9 of 1843 on the file of this Court under date

date the 31st March 1846 awarding the disputed land to the Plaintiffs (Mohojenems) and disallowing their claim to the damages sued for.

6 No. 72 Do of the objecting motion put in by the Plaintiff in this Number, in original suit No. 9 of 1843 on the file of this Court under date the 21st November 1844 stating that the late Zemindar and Mohojenems have entered into and agreement to the effect "that the former should enjoy the disputed Pattanadel village by attaching it to the Aier of the of the Zemindary and the latter the village of Sudungly by joining it to their Dhurmasenem."

7 No. 73 Do of the Diary order passed upon the aforesaid motion by the subordinate judge under date the 31st March of 1846 referring the Plaintiff to the Decree in appeal suit No. 3 of 1825 on the file of the late Southern Provincial Court.

8 No. 74 An authenticated copy of an Urzee addressed on the 20th October 1845 by the Plaintiff to the Magistrate, who called upon him for explanation regarding the complaint preferred against him by the 31st Defendant and others, which states that the late Zemindar and the Mohojenems had entered

entered into a compromise that the former should enjoy the disputed Puttanandel and a certain portion of the lands of Sedunghy village by incorporating with them the ...

9 No. 75 Do of a deed of sale passed by Soondravathaniel the 14th Defendant to Soobaroyer elder paternal Uncle of the 11th Defendant under date the 21st Perattausy year Verodhee disposing of to him one of his 4 shares in Caroongoolam and Puttanandel Villages and their hamlets for a sum of 60 star Pagodas.

10 No. 83 Do of the extract from the proceedings of Sudr Udalut under date the 30th April of 1838, directing the late Southern Provincial Court to instruct the principal Collector to attach the lands appertaining to the Shevagungah Zemindary which were alienated by Moottooveadooga taver father of the Plaintiff

11 No. 84 Do of a takeed or order issued by the Collector to the Ameen of Carosr talook under date the 2nd March 1839, directing him to hold under sequesteration such villages within his Talook as might have been granted by Moottooveadooga taver father of the Plaintiff &c.

Plaintiff Witnesses

1 Soobanarrayana, 2 Soobien, 3 Gopauloo Iyengar 4 Moottoocaroopa pillay 5 Kathavaraya pillay 6 Rajam-bavanum pillay 7 Paremanem Pillay

Defendants named no Vakeel -

Decree

1 - - The ancestor of the Plaintiff in this suit had already brought an action for the recovery of the village and lands now sued for by the Plaintiff in this Suit. A Decree of the Zillah Court passed in this suit (No. 53 of 1823) nonsuited the Plaintiff as regarded his claim to the villages of Sudunghy and Puttanandel, but awarded to him 10 Cheys of land situated in the bed of the tank of the latter village - This decree was partly confirmed by the Provincial Court with the exception of the award of 10 Cheys of land made by the Lower Court - and the then Zemindar (appellant) was directed to bring a regular suit for the recovery of the 10 Cheys of land - This appeal was final and the Zemindar took no steps to carry forward his

claim

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claim for the portion of the village. The present zemindar now carries on the suit, commenced by his father for the covery of the whole village of Puttanandel and inorder to show some valid grounds for his claim, which had been rejected by the Zillah and Provincial Courts, produces an agreement passed to him by the Defendants 1 to 13 by which they ceded to him for certain conditions the village now claimed, which agreement was executed between the time of the passing of the Decree of the Zillah Court in Original suit No. 53 of 1823 and that given by the Provincial Court in appeal suit No. 3 of 1825 its most important condition being that both appellants and Respondents would abide by the agreement whatever the Decree of the appellate Court might be.

2 This agreement the Defendants who have pleaded in this suit repudiate. They declare, it to be a fabrication.

3 With reference to this claim put forward by the Zemindar and founded upon the agreement said to have been passed between the Plaintiff and the Defendant The Acting Subordinate Judge is of opinion that by circular order of the Sudr Adalut under date the 15th August 1837 which declared that no private adjustment

adjustment of a Decree shall be allowed or deem[ed]
valid in the several Courts unless the terms of s[uch]
adjustment shall have been previously and recipro[cally]
declared by all the parties interested therein, and ma[de]
a record of the Court with their unanimous cons[ent]
the Plaintiffs claim cannot be sustained; although
this order of the Sudr Udalut is considerably posterior
to the alleged execution of the agreement, this cannot be
held to be favourable to the Plaintiff. By his own
showing the Decree of the appellate Court was un-
executed. Execution would have been ordered at any tim[e]
on the application of the Defendants, and it is reasonable
to suppose that he would have come forward and record-
ed the agreement in Court had he wished to avail himself
of the immunity it afforded him from the execution of the
Decree. With this view of the case, the Acting subordi-
-nate judge considers himself bound to ~~nonsuit~~ nonsuit
the Plaintiff with costs directing him should he feel
so disposed to bring a suit for the recovery of 10 Cheys
of land in the Puttanamandel tank, this being the
course pointed out, as proper by the Provincial Court
in appeal suit No. 3 of 1825.

Costs incurred to the Minor Plff through his guardian.

Value of Stampt Paper	66 - " - "	
Butta to the Peon who served the summons &c.	7 - 12 - "	
Butta to the Witnesses	" - 7 - "	
Vakeel fees	50 - 12 - "	124 - 15 -

Do - Do by the 1st 3rd 6th 8th 4th 13th 24th 28th 31st & 37th Defendants.

Value of the Stampt Paper	44 - 8 - "	
Butta paid to the Peon who served the notice &c.	1 - " - "	
Vakeel fees	50 - 12 - "	96 - 4 -
	Total Rupees	221 - 3 - "

Deduct

Costs borne by the Minor Plff through his guardian	124 - 15 -
Balance to be paid by Do Do to the abovesaid Defendants	96 - 4 - "

Given under my hand in the Subordinate Court at Madura on the 26th day of July A D 1850.

The Plaintiff & Defendants are hereby inform that

that in Conformity with the order of the Sudder Udalut No. 48 no compromise entered into by the parties will be valid & unless it first receives the sanction of the Court by which the Decree is passed –

Signed and sealed in Open Court this 13th day of August – A D 1850

The period for performing an appeal from the Decree will expire on the 13th day of September AD 1850, within which time the Application for appeal – for accompanied by a copy of the Decree previously passed on the case must be presented to the Civil Court or the Application will be rejected.

(Signed) George Ellis
Ag Subordinate Judge

Term of Appeal with reference to Section III Act XXXV of 1837 will expire on the 25th Sept 1850

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Extract from the Proceedings of the Sudder Udalut under date the 16th September 1850.

S.A. 23/50
205.

× × ×

1. The Court of Sudder Udalut approve of the instructions conveyed in the letter of the Civil Judge dated the 15th May last requesting the Collector to notice officially to the Merasidars and other Village Officers in the Sub Division of Cuttanoor that the orders and injunctions laid upon them by the Court through an Ameen requiring them to pay Revenue &c. to the Zemindar of Shevagungah, were cancelled and withdrawn, and that they should in future conduct themselves exactly as they did before the receipt of those instructions.

2. With reference to the objections advanced by the Petitioner, to the adoption of this course the Court of Sudder Udalut observe that it is the only means of placing the villages in question in exactly the same position in which they were previous to their attachment under the Decree of the Civil Court, and therefore the only means of duly carrying out the decree passed by the Court of Sudder Udalut in the above Appeal.

3. The Court of Sudder Udalut direct that the mesne profits referred to in the 10th para of the foregoing return be paid over to the Appellant.

× × ×

(True Extract)

(Signed) A. J. Arbuthnot
Hd. Asst. to the Regr.

(True Copy)

S. Eward
Actg. Civil Judge

By T. R. Moodoorkrishna Pillay
Hd. Mr.

Copy sent to the Court of Wards
31st Oct 50

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Extract from the Proceedings of the Sudder Udalut under date the 21st October 1850.

In Appeal Suit No. 7 of 1843 on the file of the Suer Udalut

Ungamoottoo Naachear — Pauper Appellant (deceased)

Versus.

Sreemutoo Rajah Moottoovegia Ragoonada Bodo Gooroowamy Pareya Oodia Tavir, Eldest Son and Minor of the late Zemindar of Shevagunga by his Guardian Cottee Iyengar — Respondent.

Read Motions presented on the 29th August and 5th September 1850 by J. Ouchterlony Esqre Vakeel on behalf of Bootaha Naachear — Kotomaachear and Kaatamaachear of Zillah Madura —

(Here enter Motion Nos 49 and 51 of 1850.)

Read also Motions presented on the 10th September and 3rd October 1850 by Sreenivasa-charry Vakeel on behalf of Sonmeya Naachear of Zillah Madura —

(Here enter Motion Nos 53 & 61 of 1850.)

Read

Read also Motion presented on the 26th September 1850 by R. Teroomulrow Vakeel on behalf of Mootoo Vigia Ragoonada Mootoo vadooga Pareya Vodia Tever of Zillah Madura -

(Here enter Motion No. 58 of 1850.)

Read also Motions presented on the 26th September 1850 by Goolam Moorloozah Vakeel on behalf of the Respondent in the above Appeal Suit -

(Here enter Motions No. 59 & 60 of 1850.)

1. The above Motions No. 49, 51, 53, 58, and 61 have been presented to the Court of Sudr Udalut in consequence of the death of Ranee Vingumootoo Naachear Pauper Appellant in Appeal Suit No. 7 of 1849 on the file of the Sudr Udalut, and their object is to induce the Court to recognize the right of the several parties therein to conduct the proceedings in that Suit as the legal heirs of the aforesaid deceased Ranee -

2. The Motion No. 59 presented on behalf of the Respondent in the said Appeal Suit is Counter No. 53 and the Motion No. 60 is presented by

by the same party in objection to No. 49.

3. The Court of Sudr Udalut have given their careful consideration to the arguments advanced by the contending parties in support of their respective pleas as well as to those urged by the Vakeel on behalf of the Respondent in objection to the same, and the Court are clearly of opinion that not one of the motions can be accepted by the Court as the heir of the deceased Appellant, and as such be permitted to conduct the proceedings in the suit in question.

4. The Court premise their observations by remarking that the deceased Appellant laid claim to the Zemindary as the widow of the late Zemindar, and she was childless.

5. Every other claimant to the Zemindary must therefore rest his claims on other grounds than those advanced by the deceased Appellant, and these separate, and distinct grounds cannot be disposed of in the present Appeal, but must form the subject of a new suit.

6. In respect to motions No. 49 and 51, the

the Court observe that the parties therein advance no title to the Zemindary, either as the legal heirs of the late Appellant, or in respect to any connexion existing between them, or by virtue of any right conveyed to them by the deceased. They simply plead a right of succession, on the demise of the Appellant, to vest in them, as being the Grand children of the late Gowry Vullabah Maha Rajah.

7. And although it be true that the decision of the Appeal Suit in question might materially affect the title of the said Motioners to succeed to the Zemindary, as the Grand children of the late Gowryvullaba Maha Rajah, still, in the opinion of the Court, such circumstance cannot in itself in any way be held to vest them with the right to continue the action commenced by the late Appellant.

8 The foregoing remarks, the Court observe, are equally applicable to the case of the motioner in No. 58, who claims the right of conducting

the

the Suit as the late Appellant's heir, in con-
-sideration of his being the great grand son of
the late Gowry vullabah Maha Rajah. -

9. And in regard to Motions No. 53,
and 61 in which the party, in addition to the
pleas put forth by the other motioners, of being
the Grand children of the late Zemindar, alleges
the execution of a Will in her favor by the late
Appellant, whose niece she was, the Court observe
that as neither the alleged will, nor the imme-
-diate relationship of the Motioner to the late
Appellant confer upon her any right under
the Hindoo Law, as late Appellant's heir, to recover
the Zemindary, these additional pleas are likewise
worthless. -

10. Entertaining this view of the case the
Court of Sudr Udalut resolve to direct that the
Appeal Suit No. 7 of 1849 be removed from their
file. —

11 At the same time however the Court of
Sudr Udalut deem it proper to observe that

the

the foregoing resolution will form no bar
to the institution by any of the parties in these
Instances of a new action for the recognition
of their alleged claims, provided the same be
instituted on or before the 31st day of January
next at the expiration of that period the
Decree of the Civil Judge will be considered
final.—

Dec.r 10th

Revenue Board Office,
Fort St. George,
5th December, 1850

From,

W. H. Bayley Esq
Secretary to the Court of Wards,

To,

R. W. Parker Esq
Collector of Madura

Sir,

Rev. Dept.

I am directed by the Court of Wards to acknowledge the receipt of your letter of the 18th October 1850, enclosing an Advertisement for publication in their Office of a Sale of Lands belonging to a Fish rent defaulter in the Shevagunga Zemindary.

p. 336 of Vol. 1 published at Madras in 1843 "Decrees of Appeal Suits in the Court of S.U."

2. The Court of Wards observing that in Appeal Suit IV of 1822 before the Sudr Adawlut, that Court stated "that the powers of a Manager are co-ordinate with those of a Zemindar as to the realization of rents of Estates made a direct reference to that Court and were informed that the ruling in the above Suit must be taken as the

authority

authority for disposing of the case in question

3. The Court of Wards therefore see no necessity for the Collector taking the sale of these lands into his own hands or for their being advertised at the Board's Office in the same manner as Ayen lands to be sold for arrears. It will be sufficient for him carefully to see that the Manager complies with the terms required from a Zemindar under Sec. III, Reg. V of 1822

4. The Advertisement is returned herewith.

Revenue Board Office
Fort St. George,
5th December, 1850

I have the honor to be,
Sir,
Your most obedient Servant.

W. H. Bayley
Secretary

To,

R. D. Parker Esq.
Collector of Madura

Comd. [illegible]

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41-24
57

Revᵘ Board Office,
Fort Saint George,
20ᵗʰ February 1851.

From
W. H. Bayley Esqre
Secretary to the Board of Revenue

To
R. D. Parker Esqre
Collector of Madura

Rev. Dept.

Sir,

With reference to your letter of 4ᵗʰ February 1851, I am directed by the Board of Revenue to observe that you do not state, whether your proposal to revive the System of Poollee toondoo refers to the District of Madura or the Zemindary of Shevagunga.

2 From the Circular Order of the Board dated 20 January 1820, you will perceive that the above System has met with the strong disapprobation of Government as a means of securing the Revenue of the Ayen Villages; and Mr Blackburne, both in his Report on the Settlement of Shevagunga for fusly 1247

(para 2) and in his letter to the Board of 5th April 1839, has pointed out the hardships of enforcing it in that Estate.

As a general Rule therefore, the Board consider it abolished though if it has been the usage in the Zemindary, the Board will not object to its being enforced in those special cases, where you are satisfied there has been fraud, and where the deficiency exceeds 10 per cent.

Rev. Board Office,
Fort Saint George,
20 February 1851.

I have the honor to be,
Sir,
Your most obedient Servant,

W. H. Bayley
Secretary

To
R. D. Parker Esqre
Collector of Madura

[illegible]
[illegible]

Issued 8th

208.

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March 1/51

R. 1 Revenue Board Office,
Fort Saint George,
24th February 1851.

From
W. H. Bayley Esqr
Secretary to the Board of Revenue

To
R. D. Parker Esqr
Collector of Madura

Rev. Dept.

Sir,

Alluding to your letter of the 13th Instant conveying your opinion that "there is obviously no ground for a special appeal in Original and Appeal Suit 37 of 1847 and 39 of 1850, in which the Courts have recognized the right of a Zemindar to alienate waste lands on a perpetual Cowle," I am desired to request that you will state whether, in your judgment, the above mentioned Decisions may be reconciled to the Regulations and Correspondence quoted in my letter of this date, regarding the Village of Moolyoody. You will observe that waste land may be given for Cultivation for a term of years, but the full Assessment is leviable at the expiration of the term of Cowle according to the

usage

usage of the District.

2. It is observed that the period for preferring a Special appeal will terminate on the 15th April next.

I have the honor to be,
Sir,
Your most obed.t Serv.t

Rev.e Board Office,
Fort St. George
24th February 1837

W. H. Bayley
Secretary

To
R. D. Parker Esq.
Collector of
Madura

Exam.d R Newbigging

Copy sent to the Guardian of Shivaganga
11 March 1857 -

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Q

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To

The Collector of

Chingleput

Sir,

1. I am directed by the Board of Revenue to acknowledge the receipt of your letter dated 31st January last, enclosing an explanatory statement of lands held on Cowle in your district, with reference to the remarks contained in Paras 15 and 16 of their Proceedings on the Settlement of the Jaghire for Fusly 1239, and to communicate to you the following observations and orders upon the several cases entered therein.

2 The first five entries in the list are of lands granted on Cowle for religious purposes at a rate below the survey settlement, in four instances by Zemindars, in the fifth by the renters of a village - you state that the lands in question were waste at the time they were then appropriated and that the grants were in consequence confirmed by

the

the Collector agreeably to the intention of Sec 15, Regulation XXX of 1802. It appears to the Board that the Regulation referred to does not legalize the alienation of waste land by a Zemindar in perpetuity at a rate below the proper assessment; but as the difference between the rent now paid, and that to which the land would be liable if taxed at its full value is very small, the Board are prepared to recommend to Government that No 1.2 and 3 be continued upon the present terms. In future, these lands should not be included under the head of Cowle, but should be entered in the accounts separately as Bilmuctah or fixed rents, with all others held on a similar tenure.—

3 With regard to [illegible] No 4. it would appear that the grant was made direct by Mr Viveash, there being no mention in his puttah of a previous grant by a Zemindar. Moreover both in the Statement submitted in your letter, and in the Puttah of Mr Viveash, the quantity Statement A. Cl. Encl 4.

of

of land entered is 6-9 of Nunjah land only, whereas it would appear from the details of the cultivation of last Fusly, contained in the statement, that an additional quantity of 13½ of Punjah was cultivated under the same grant in the last Fusly. This difference requires explanation. If, upon further enquiry, you are satisfied that a grant was given by the late Zemindar, and that the Pattah of the Collector was merely confirmatory thereof, the Board will recommend that this land also may be continued according to the present terms, but if the only document on which it is held be the puttah of Mr Vireash, this case, as well as No 5 in which the grant was made by a renter and can therefore be of no validity now, should be classed with Nos 7-8 & 9 on which grants were made by former Collectors upon their own authority without the sanction or knowledge of the Board or Government. On these cases you will report fully

Statement A Col 20.

at

at the completion of the survey, in connexion with any others of a similar nature that may come to your notice in the progress of the work, in order that the whole may be settled upon some general principle. For the present, lands held under grants of this description should be entered in the accounts as heretofore, under the head of Cowle, with the remissions on each, and a note stating that the question of resuming or continuing them is reserved for decision at the completion of the survey.

4. With regard to No. 6, which is for 18 Cawnies of land stated to have been held by a Fakeer "from time immemorial", and for which a pattah was granted by Mr. Vireash in Fusly 1236, you are requested to refer to former accounts, and ascertain if possible the terms on which the land was held in the time of Mr. Place and other Collectors before the Permanent settlement whether the full assessment

fixed

fixed thereon was paid in all seasons, or whether the demand for the year was proportioned to the extent of land actually cultivated.

5 With regard to the grant of 150 Cawnies of land for the use of a Pagoda at Ootramaloor No 10 in the list, it appears on reference, to the Board's letter of the 14th October 1814 which you cite, that the terms upon which this Cowle was granted have never been communicated to the Board according to the directions given in that letter – you are requested to supply this omission by forwarding a copy of the Sunnud when furnishing the required information upon the other cases concerning which further explanation has been deemed necessary.

6. The explanation contained in Para 5 of your letter regarding the grant entered in Statement 17 which accompanied your Jummabundy report

for

for the last Fasly as a permanent Cowle, is considered satisfactory - the mistake will of course be rectified by you in the accounts of the present Fasly.

7 With reference to the explanation contained in Para 6 regarding the discrepancies which had been noticed by the Board in the assessment levied on lands held on "progressive cowle", in which you observe that "the remissions are not fully allowed "if it is found that a Ryot, to whom "a Cowle has been granted, has discon-"tinued the cultivation of other lands "on which the full assessment is "payable," I am directed to call your attention to the Cowlenamah referred to in my letter of the 21 October last, the express condition of which° is that the usual remission is forfeited unless the lands cultivated under the cowle be in excess of the usual cultivation - the Board consider it of

° The above Cowle [illegible] not be granted unless the lands cultivated under its conditions are in excess of the usual and the m[illegible] cultivation. Cowlenamah enc[illegible] From the Colr. 23 Sept[illegible]

of importance that this condition should not be relaxed - it is a simple rule easily understood by the Ryots, and a deviation from it might occasion loss of revenue by the inducement which would be held out to the ryots to throw up lands assessed at the full Teerwah, and employ their capital in the cultivation of waste -

8\. The statement of progressive Cowles which accompanies your Jummabundy report should shew the terms on which waste land is granted for cultivation and should be prepared in strict conformity with the rules laid down in the Cowlenamah - In cases where you find it necessary to remit any part of the rent leviable upon such lands according to the terms of the Cowle the amount should be entered as a remission and shewn separately in the accounts of the settlement -

9\. From the explanation given in Para 8 of your letter regarding the 1st entry under the head of Kunjah Cowles, it would appear that the whole of the lands there specified (consisting of 156 - 6 Cawny the assessment

on

on which was Rupees 1161-14-7 from which a deduction of 736. 11. 8 was made) were situated under the Madrantacum tank; but it appears by the statement that part is situated in the Conjeveram, Chingleput Ootramalore and Trepatoor Talooks - The Board presume that all the cases in question were cultivated with dry crops only, in consequence of there being no means of irrigating them - When this is the case the lands should not be entered under the head of Cowle lands, but should be assessed at the rate borne by Punjah lands of the same quality in the neighbourhood and entered separately in the Jummabundy accounts as wet lands cultivated with dry produce -

Statement 18. Encl. in letter from Collr. 31st Aug. 1830.

10. Where in consequence of the deficiency of water dry grain is raised as a 2d crop upon land which has previously borne a crop of paddy, half the assessment of the land is to be collected on such 2d crop, and the amount so collected is to be entered under a separate head in the accounts -

(Signed) C. Elliott
Secretary

6 June 1831.

(No 65.)

To,

The Secretary to Government in the Judicial Department.

Sir

1. I am directed by the Judges of the Court of Sudr Udalut to acknowledge the receipt of your letter, No 219, dated 12th instant, acquainting them that the Board of Revenue have requested, that they may be informed of the result of the reference, made to the Judges, under date the 15th November 1825, respecting the interpretation of that part of Section XI, Regulation XXX of 1802, which regards Puttahs for clearing waste land and bringing it into cultivation.

2. The Board of Revenue in the concluding paragraph of the letter, dated 17th October 1825, of which a copy accompanied the letter from the Secretary to Government in the Judicial Department, dated 15th November 1825, state their opinion that Section XV, Regulation XXX of 1802 "is applicable to Puttahs for clearing "waste lands which are to be in force "only

"only for a definite period according to the custom
"of the country" and with reference to this
paragraph, the Judges were called upon
to state their opinion "as to the nature
"of the puttahs which, under Section XI
Regulation XXX of 1802, it is competent
"to Zemindars to grant, for clearing and
"bringing waste lands into cultivation".
It is observed, that "the Regulation requires
"as essential to the validity of the puttahs,
"that they shall have been bonâ fide
"granted for these purposes," but that this
"enactment has been referred to as empower-
-ing Zemindars to alienate valuable lands
by grants in perpetuity, subject only to the
charge of a nominal quit rent, and
"exempt from liability on account of arrears
"of revenue due to Government from the Zemin-
dars," and the opinion of the Governor in
Council is stated "that this was never
"intended," that "the object of the provision
"in question was evidently nothing more
"than to prevent the preceding rules in
"the same Regulation from depriving
"Zemindars of the means of giving the
"requisite encouragement to the clearing
"and tilling of waste; that is, granting
"puttahs for such period and on such

"conditions

"conditions as bonâ fide are necessary for "that purpose."

3. It appears to the Judges that the alienation of "valuable lands" as above described is at variance with the provisions of Section XII, Regulation XXV of 1802.

4. Section XI, Regulation XXX of 1802 recognizes the right of proprietors of land to grant pottahs for clearing and bringing waste lands into cultivation, and such pottahs are declared to be binding on all future proprietors, but the provisions of this Section do not render such lands exempt from attachment for arrears of Revenue.

5. In respect to "the nature of the pottah," which Zemindars are competent to grant for clearing and bringing waste lands into cultivation, no rules are prescribed in the Regulation, and the parties would, therefore, appear to be competent to enter into such agreements as they may think proper.

6. The Judges observe, that by Section VIII, Regulation VIII of 1793 in the Bengal Code of Regulations, the nature of pottahs, granted for this purpose, is particularly defined, and the provision

provision is illustrated by a case reported at page 49 of the second volume of the reports of cases, determined in the Sudr Dewanny Udalut from 1812 to 1819 inclusive.

Sudr Udalut,
Registers Office,
22.d April, 1831.

I have &c.
(Signed) W. Hudleston
Register.

(A true Copy)
(Signed) H. Chamier
Acting Chief Secretary

(True Copies)

W. H. Bayley
Secretary.

Comp.
[illegible]

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219

Revenue Department

Extract from the Proceedings of the Court of Wards dated 24th March 1851.

Read the following.

No. 269

Extract from the Minutes of Consultation Under date the 18th March 1851.

× × ×

Para 4. The Right Honorable the Governor in Council is of opinion that when Estates under charge of the Court of Wards may yield a surplus, above the more necessary disbursements for public revenue, expenses of management, maintenance &ca. it would often be more to the real benefit of the incapacitated proprietor to appropriate such surplus or a part of it in a manner calculated to effect a permanent improvement of the property than to invest it in public securities to be made over and perhaps dissipated by the youthful proprietor on his entering upon the management. The Governor in Council observes that this course is authorized by Section XVI, Regulation V. 1804, and he resolves to call the attention of the Court of Wards to the principle in their administration of the Estates under their charge.

(A true Extract)

(Signed) T. Pycroft

Secy to Govt.

× × ×

Ordered also that copy of para 4 be circulated to all Collectors for information and guidance.

(A true Extract & Copy)

To

The Collector of

Madura

[illegible]

Sub Secretary.

March 28/51

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Revenue Department

Extract from the Proceedings of the Court of Wards dated 24th March 1851—

Read the following letter from the Collector of Madura dated 8th March 1851—

/Here Enter No. 30/

The Court of Wards approve of the suggestion of the Collector that the question of the restoration of the Moolgoody Village to the claimant in Petition 862 of 1850 may remain in abeyance pending the result of the Motion which has been made to the Civil Court of Madura in O.S. No. 39 of 1850—

/A true Extract/

[signature]
Sub Secretary

To
R. D. Parker Esq
Collector of Madura

[illegible]

Extracts from the Proceedings of the Sudder Udalut under date the 1st May 1851.

Read Miscellaneous Petition presented on the 25th November 1850 by J. Ouchterlony Esqr and J. Ramachundriah Vakeels on behalf of Bootanka Nautchiar Kola Nauchiar and Kotamah alias Columdapoory Nauchiar of Zillah Madura.

R (Here enter S. M. P. No 424 of 1850)

Read also Miscellaneous Petition presented on the 6th January 1850 by Sreenuvassachary Vakeel on behalf of Rannee Soumia Nauchiar of Zillah Madura.

(Here enter S. M. P. No 3 of 1850)

Read also Miscellaneous Petitions presented on the 6th January and 3d February 1851 by Goolam Moortoozah Vakeel on behalf of Sreematoo Rajah Mootoovezia ragoonasa Bodagoo roosawmy Pereya Oodia Taver Eldest Son of the late Zemindar of Shevagungah by his guardian Cootta Josegey Respondent

Respondent in Appeal No. 7 of 1049 on the File of the Sudr Udalut.
(Here Enter S.M.P.s Nos. 2 & 58 of 1851)

Read also Miscellaneous Petitions presented on the 20th February 1851 by R. Teroomul Row Vakeel on behalf of Moottoovejia Ragoonada Moottooradoo-ga Pareya Oodia Taver of Zillah Madura

(Here Enter S.M.P. No. 96 of 1851)

Read also the Answers of the Pundits to the question submitted to them under dates 13th March & 28th April 1851.

Of the foregoing Petitions, the first, is presented on behalf of the 3 daughters of the late Gowry Vullabah Taver, the husband of the deceased Rannee Unga-moottoo Nauchiar Pauper, Appellant in Appeal Suit No. 7 of 1049 on the File of the Sudr Udalut by his 2nd and 3rd wives, and has for its object the two fold purpose of inducing the Court, upon a reconsideration of the order contained in their Proceedings under

date

date the 21st October last, to replace the said Appeal Suit upon their File, and to admit the Petitioners, as the legal heirs of the deceased Appellant, & having an identity of Interest in her Suit, to Conduct the Subsequent Proceedings therein.

Petitions Nos 3 and 96 of 1851 have the same object in view as the preceding Petition. The party in the former is the daughter of the said Gowry Vullabah Saver by his 6th wife and she bases her claim to Continue the Appeal Suit on the alleged execution of a will in her favor by the aforesaid Appellant deceased.

The claim of the latter is founded upon his being the son of a daughter of the said Gowry Vullabah Saver by his 1st wife.

Petitions Nos 2 and 58 of 1851 are presented on behalf of the Respondent in the said Appeal Suit, who seeks to obtain the Confirmation of the Courts order above referred to, & the rejection of the application of the foregoing

foregoing Petitioners to Carry on the Appeal in Forma Pauperis

The Law Officers of the Court declare that assuming the family to be divided, upon the death of the late appellant Mugamoottoo Nauchiar the Sopondas of her late husband became Entitled to Succeed to the Estate, to the total exclusion of the daughters of Cotemporary wives.

The Court of Sudder Adalut having attentively considered the Arguments urged by the contending parties in support of their respective pleas, are of opinion that the ends of justice demand that their order issued under date the 21st October last, directing the dismission of Appeal No. 7 of 1849, be now revoked.

On Referring to Brown's Report of Parlimentary Cases upon Appeals & writs of error, the Court of Sudr Adalut find that in a Case analogous to the one now under Consideration in which the Plaintiff died without

issue

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issue, it was ruled by the Judges of the Exchequer that the Right of Appeal was vested in the Brother of the deceased as heir in remainder.

A careful reconsideration of the question in all its bearings has led the Court of Sudder Udalut to conceive the above to be the just interpretation of the Law on the point of practice at issue, and seeing reason to doubt the soundness of the opinion given by their Law Officers, they resolve to Cancel the order Contained in their Proceedings of the 21st October last, & to direct that Appeal Suit No. 79 of 1849 be replaced upon the File & that the Petitioners in Nos. 424 of 1850 and 3 and 96 of 1851 be made supplemental appellants.

The Court of Sudder Udalut further resolves to intimate for the information of all parties Concerned that they will at once proceed to decide the points brought specially to issue in the appeal as it originally came up from the lower Court & that, should the

appeal

appeal be Sustained, the Court will then determine, in order that the rights of the Petitioners as against each other, and as against the Respondent, may be tried whether the record shall be remanded to the Court of original Juris-diction, or whether any other more ap-propriate Course can be pursued in regard to the same.

Ordered that Extract from these proceedings be granted to the Petitioners Vakeels on their respective application

True Copy

[illegible]

Extract from the Proceedings of the Sudr Uda
under date the 18th August 1851.

Read motion presented on the 4th October 1849 by J. Ouchterlony Esqre. and J. Ramachundriah Vakeels on behalf of Runee Ungamootoo Nauchiar Pauper appellant in appeal No 7 of 1849.

(Here enter Motion No 72 of 1849)

Read also motion presented on the 29th April 1850 by J. Ouchterlony Esq and J. Ramachundriah Vakeels on behalf of the same party.

(Here Enter Motion No 32 of 1850)

1. In the former Motion the appellant prays that the documents specified in the appeal may be filed of the record.

2. In the latter motion it is prayed that the Deed of Gift produced in appeal Suit No 53 of 1847 Sudr Court file may also be received.

3. The Vakeel for the appeal and the Advocate General as Counsel for the Respondent having been heard orally the Court proceeds

1 Arzee of the Police Ameen of Sheevagunga dated 17th June 1829 addressed to the Collector.

Jakeed

proceeds to pass orders on the said Motion.

4. The Documents entered in the Margin were tendered to the lower Court by Motions 426, 428, 446, 447 } 1847 on which orders were passed to the effect, that they would receive consideration at the final hearing of the case, but no allusion to them can be traced in the subsequent proceedings of the Civil Judge, or in the final Judgment and the Court of Sudr Udalut consequently resolve to allow these documents to be produced.

5. The Court of Sudr Udalut deem it necessary that the authenticity of the Defendants Exhibit No , Vizt the Urzee to the Collector

2 Takeed from the Collector in reply to the above dated 18th June 1
3. Arzee of Purvatavurdanee Naunchiar to Principal Collector 1st August 18
4 - Do. of Do. to Revenue Board 26th October 1830
5. Takeed from the Collr. to Purvatavurdanee Naunchier dated 4th December 1830
6. Do. from Do. to Do. 6th Decr. 1830
7- Letter to the Bd. of Revenue d 10th December 1829
8. Do. — Do. 4th January 1830
9 Copy of the Lasanum in the Register of the Zellah Court date 14th April 1809.
10- Copy of the Istimrar account the Zemindary furnished to the Collector with Defts. father's Urz dated 16 January 1817
11. Takeed of the Collr. dated 3d. August 1820
12. Copy of an Urzee from the Zemindar to the Principal C applying for certain documts dated 6th June 1832
13. Copy of the List of docum referred to in the above.
14- Original letter dated 6th June 1832 from the Zemindar to the Stanapaty and Vakeel enclosing the above Urzee and List
15- Original letter dated 7th July 1832 from the Zemr. to the Stanapaties Goorooappa naik and Andenina Naik-
16- Original Takeed dated 10th Novr 1832 from the Zemindar to the

Stanapaties Gooroovappa Naik and Andenaiga naik ordering payment of Rs300 to Ebram Alu for Copy of Documents &c.

17. Accounts of the said Stanapaties relating to the above

18. Original letter dated 15th Decr 1830 from the Shunmagum Roydam Mootoo Ramen to the Madura Stanapaty Gooroovappa naik

19. Deposition of Kaderfaib in O.S. No. 4 of 1832 of the Provl. Court Southern Division

20. Motion of the Deft in O.S. No. 3 of 1833 dated 10 March 1834

21. Authenticated Copy of the decision of the Magistrate in case No. 7 of 1848.

22-23. Plaints Suits No. 320 & 350 of the file of the late Zillah Court of Ramnad.

24. Razanamah decreed dated 12th October 1826 in O.S. No. 16 of 1824 Southern Provl. Court.

25. Rejoinder dated 22d Octr 1823 filed in O.S. No. 4 of 1823 Southern Provl. Court

26. Motion of Plaintiff in O.S. No. 4 of 1832 dated 15th Septr 1834.

27. Arzee of Purvatavurdanee Nauchiar to Sub Collector dated 15th January 1830.

28-29 } 30-31 } Correspondence between the Govt Board of Revenue and

Collector dated 7th Octr 1806 should be fully tested, and they therefore will receive the Deeds noted in the Margin but decline to authorize the production of the record of the inquiry by the Magistrate into the charge of Forgery in No. 7 of 1848

6. The remaining documents tendered by the appellant and noted in the Margin will complete the pleadings, and correspondence; which have been already admitted on the record and as being calculated more fully to elucidate the facts of the case will be received.

7. It is therefore ordered that the documents specified above be produced by the appt within six weeks from this date with the application prescribed by Section XVI Regn XIII of 1816.

Ordered that Extract from these Proceedings be granted to the Petitioners

Petitioners respective Va-
=keels on their application.

and Principal Collect[illegible]
of Madura dated 19th & 25th
January 19th July and 29th No[illegible]
1830-

True Copy/
(Signed) Dale and Boyson

(True Copy)
W. H. Bayley
Secretary-

17 11/51

10th September 1851

P.N. 15/51

To

H. D. Parker Esqre.

Collector of Madura

Sir,

I have been empowered & instructed by Gowery Vullaba Taver, the Zemindar of Padamattoor, to demand from you the restoration of his Cawnie Imaum in the Teroopavanum Village, sequestered by your Predecessor in Fusly 1252, on the false representation of the Umbalacaren & Curnum of the Village, that it included certain Sircar lands, & the produce thereof from that fusly - or to prosecute his claim in the Civil Court. May I therefore request your early attention to the subject. I have been absent to Salem, or should have made this application earlier to you. I shall be prepared to attend any enquiry you may appoint or afford any explanation you may require. and I rely upon your sense of Justice to save me from the alternation imposed upon me.

I herewith submit the Power Attorney to me with a translation of it.

I have the honor to be

Sir,

Your most Obedient Servant

V. Winder

No 1711/57

Firm G. F. Fischer

Esqr Madras

10th September 1857

[illegible]

[illegible]

The Power of Attorney written & given to G. F. Fischer esq.re of Salem, now residing at Madura, by Gowery Vullaba Taver, alias Voya Taver, Zemindar of Pada-mattoor Poliaput, in the Shevagungah Zemindary in the Madura Zillah, under date 11th of March 1851.

I & my family have possessed & enjoyed from time immemorial the Dessaycavul Manium, the Cuttoopudy Sooventherum, & certain Gardens & Topes &c.a appertaining thereto in the Cusbah Teroopoovanum Village, hereditary property descended to us from our forefathers. The Umbalcaaren & Curnum of the said Village quarrelled, & falsely reported to the Huzzoor that certain Ain lands were included in the said Manium lands & enjoyed by me - and the late Collector issued an order to the Talook Zuftee Ameen to seques-ter & keep in the Circar Charge all the said lands until enquiry could be made into the matter and order passed - and the said Manium lands have so been kept in sequestration from July 1252 till now. Afterwards I repeatedly petitioned the Authorities on the subject, when the Zemindary itself was under sequestration, & again when it was released, & again when it was taken under the Court of Wards - but have been able to obtain no enquiry or restoration of the

lands

lands nor delivery of the produce from the said Fusly 1852 till now. I therefore now appoint you my Public Agent to adopt the needful measures in Cutcherry, & in Court if needs be, for the recovery of the said Manium & produce from Fusly 1252; & for that purpose deliver to you a Copy of the Accounts & Documts. thereof. & I hereby engage to hold & consider all acts & Deeds done by you in the Revenue & Judicial Departments on this behalf as my own. Should it happen to be necessary to appoint other agents in this matter you have my consent & authority to do so. And until this matter is settled I hereby engage not to appoint any other agent besides yourself in it. & as soon as the enquiry is concluded I hereby further authorise you to grant receipt to the Circar & take charge of what is due to me on my account. Given of my free will & accord.

(signed) Gowery Vullaba Tauer

Witnesses

(signed) Ramnadpooram Vencatasoobien

Madura Sunkarien.

Written by me

(signed) Madura Tumboo Iyengar.

(a true translation)

T. Hislin.

1

Copy sent to B.O. with letter dated 8th Decr /51.

Copy sent to the Sub. Collr. Office 11 Jany 1852

Extract from the Proceedings of the Sudr Udalut under date the 10th November 1851.

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(15)

Read Petition presented by Goolam Moortoozah Vakeel, on the 1st July 1851 on behalf of Sreematoo Rajah Moottoovezeah Regoonada Badagooroo Swamy Pereya Oodia Tever minor Zemindar of Shevagungha praying for the admission of a Special Appeal from the Decree of the Civil Judge of Madura in Appeal Suit No. 39 of 1850 confirming the Sub. Court's decision in Original Suit No. 37 of 1847.

(Here enter S.A.P. No. 122 of 1851.)

1 The Original Suit was brought to set a side, under Section XX Regulation XXX of 1802, certain Cowles granted in 1831 by the late Zemindar of Shevagungah and to recover 3 Villages valued at Rupees 1593, also to set aside a decree of the Sub. Court in a Suit filed by the 1st and 2d Defendants against the 3d Defendant for a portion of these lands in which the interests of the Plaintiff as Zemindar had been compromised.

2 The Plaintiff alleged that when the Cowles were issued the lands were not, as described in the deed, entirely waste, and further that the boundaries of the Villages had been incorrectly specified and that

that lands had been included in the Cowels which lessor had not intended to grant.

3 The Acting Sub: Judge considered that the execution of the Cowels had been fully proved, that the lands specified in the Plaint and under dispute in the former suit fell within the boundaries specified in the Cowles, and that the Plaintiff had failed to shew that any part of the lands included in the Cowles had, prior to the grant, been under cultivation. He consequently dismissed the suit.

4. The Civil Judge was of opinion that no grounds existed for disturbing the Judgement of the Sub: Court; the alleged frauds appeared to him on Appellants own showing to consist of neglect or carelessness on the part of his ancestor or his servants, it could not be allowed that a Zemindar having granted such Cowels should after a lapse of time and after the labor and capital of the Cowledars had been expended on the lands nullify his own acts by asserting that he was not sufficiently careful when he performed them. The Civil Judge thought that the boundaries specified in the Cowles had been very clearly defined and understanding the original decree to

to declare that the Cowles, which Appellant would set aside, were valid and binding, and that the lands alluded to in Original Suit No. 41 of 1843 were within the limits therein defined, whatever other lands might or might not be, he confirmed the original decree with costs.

5. The Appellant applies for a review of Judgment on the ground that the Cowles were null and void abinitio as being in their very nature without the scope of Section XV Regulation XXX of 1802, producing in support of this plea copy of a letter from the Board of Revenue dated 6th June 1831 and of a letter from the Court of Suder Udalut to Govt. dated 22d April 1831.

6. The Civil Judge rejected the above application remarking that the opinion expressed in the letter of the Suder Udalut was opposed to the Petitioners construction of the law.

7. In the present application the Petitioner abandons the pleas on which he relied in the Original and Appeal trials and contends, that the term "in perpetuity" occurring in Section XV. Regulation XXX of 1802 applies only to grants of sites for dwelling houses and factories and of gardens, and that this was virtually ruled by the Court of Suder Udalut in

in their letter of the 22d April 1831.

8 The Court of Sudr Udalut are of opinion that the ground urged by the Petitioner for the admission of a Special Appeal is not a valid one.

9 The Court of Sudr Udalut in their letter quoted by the Petitioner expressed their opinion that "in respect to the nature of the Puttah which zumin-"dars are competent to grant for clearing and "bringing lands into cultivation, no rules are pres-"cribed in the Regulations, and the parties would "therefore appear to be competent to enter into such "agreement as they may think proper". The Court also observed that the Privy Council noticed in their decree, Neeladry Row Versus Vencatapunty Rauze dated 27th June 1834, "that it was perfectly "competent for the zemindar to alienate their" (waste and uncultivated Lands.

Ordered that extract from these proceedings be sent to the Civil Judge of Madura for his information.

Ordered also that extract from these pro-ceedings be granted to the Petitioner's Vakeel on his application. — [illegible]

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1852

Revenue Department

Extract from the Proceedings of the Court of Ward's Dated 1st March 1852.

Read letter dated 31st January 1852 from the Collector of Madura.

(Here enter No. 20)

Paras 8 & 9. It is stated that the Desa Cavel Enams consisting of 78 Cheys, Nimpah and 36 Coorookunnd Punjah were included in the Assets on which the Pescush of the Zemindary of Sheragungah was fixed and that they therefore legally belong to it, while the Sotuntrums did

" 11. not form part of the Assets of that Zemindary and do not therefore belong to it. The Board would wish the former point to be further considered as the fact of the resumption by Mr.

How so Lushington noticed in Para 8 appears to be incompatible with the view that the lands refered to formed part of the assets on which the Peshcush was fixed.

2. As the 8 Cheys of Desa Cavel and 1/4th of the Sotuntrums were made over to the Poligar of Nuttacoody by

" 12 the Zemindar of Sheragunga before

his Estate came under management of the Court of Wards the Court consider that this portion should not be interfered with during the life time of the present incumbent but that he should be distinctly informed that this permission to hold it must not be construed as an admission of his right thereto.

3. Before issuing instructions as to the disposal of the other Desacavel Enams and Sotuntrums the Court of Wards would wish to have before them a distinct and concise Statement of the nature and extent of the claims advanced towards these by the Proprietor of Pudmattoor, and a more clear exposition of the Collectors objections to recognize the demands of that individual Para 3

(A true Extract)

W. H. Bayley
Secretary

To

R. D. Parker Esq
Collector of Madura

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1052

[illegible]

[illegible]

From the Court of
Wards.
1st March 1052.

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Question	Answer
A A Zemindar who during his life time married 6 wives, dec^d. leaving surviving him B his 5th wife, C a Daughter by his 2nd wife, D and E Daughters by his 3^d wife, F a Daughter by the 6th wife, and G the son of a Daughter by the 1st wife. Subsequently B the 5th wife also demised. Assuming the family of A to be a divided one, the Court of Sudr Udalut require to be informed whether any, and if any which of the above surviving parties can be recognized as the legal heir or heirs of the late Zemindar. (Signed) J. Lushington Ag Register 22^d March 1852.	According to the text of Yagnyavulcya declaratory of the right of widow, Daughter &c. to succeed to the property of the man who died leaving no male issue, the whole of the estate of A referred to in the question, became after his death, the property of his widow B, and not of his Daughters or Daughters' Sons while she was alive. After the demise of B, her own Daughters and others alone can in right of their propinquity to her, be recognized as heirs to the Estate which had so devolved upon her as stated above — but neither the Daughters nor the Daughter's Sons of A can be recognized as heirs to the said Estate, by reason of their not being the issue of B. (Sig^d.) Appunnah Sastry Senior Pundit, Sudr Udalut. C. Gopaula Sastry Junior Pundit, Sudr U. 25th March 1852.

Question	Answer
A A Zemindar, having during his life time married 7 wives, died leaving surviving B. C. D. his 5th 6th and 7th wives, E a Daughter by his 6th wife C. F a Daughter by his 1st wife. H a Daughter by his 2d wife, I. J and K Daughters by his 3d wife, together with 9 grand children the offspring of the Daughters of the 1st 2d and 3d wives who predeceased him.— Subsequently C and D died, and some years after them, B the 5th wife also demised.— Assuming the family of A to be a divided one, the Court of Sudr Udalut require to be informed whether any and if any which of the above surviving parties is entitled to succeed to the Zemindary — (Signed) F. Lushington Ag. Register 25th March 1852	Although the surviving 5th 6th and 7th widows of A had equal rights as widows, yet the 6th widow having a Daughter was according to the law books "Smritichundrika" &ca sole heiress to the Zemindary a real Estate— After her death, her daughter is entitled to the said Estate— (Sig) Appunah Sastry Senior Pundit, S.U. C. Gopauloo Sastry Junior Pundit, S.U. 25th March, 1852

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Points to be argued by the respective Pleaders retained in Appeal Suit No. 7 of 1849 on the file of the Court of Sudr Udalut

1. That inasmuch as the parties who now appear before the Court of Sudr Udalut as intitled to continue the Proceedings in the said appeal suit, have been declared by the Hindoo Law Officers of the Court of Sudr Udalut not to be the heirs of the deceased Appellant Ungamootoo Nachear, they are not competent to revive the appeal which abated on her death.

Boodaca Nauchear
Cota Nauchear
Cotama Nauchear
Mootoo Vadagoo Taver.

2. That inasmuch as the parties named in the margin, have been also declared by the Hindoo law Officers of the Court of Sudr Udalut not to be the heirs of the deceased Zemindar Gowry Vullaba Taver, who died without male issue, they are not competent to revive this appeal Suit as heirs in remainder of that person.

3. That although the party named Somnea Nauchear has been recognized by the Hindoo Law Officers of the Court of Sudr Udalut to be the heir in remainder to the late Zemindar Gowry Vullabha Taver, yet notwithstanding this recognition, she is not competent to conduct the appeal Suit as the representative of that person, inasmuch as the aforesaid Zemindar was himself no party to the cause either originally or in appeal.

4. That even if the said parties quoted in para 2 and specified in the margin had been recognized as the heirs to the late Zemindar Gowry Vullabha Taver, yet notwithstanding such recognition they are not competent to conduct the Appeal Suit as the representative of that person inasmuch as the aforesaid

Boodaca Nauchear
Cota Nauchear
Cotama Nauchear
Mootoo Vadagoo Taver.

aforesaid Zemindar himself was no party to the cause either originally or in appeal.—

5. That under no circumstances can party be allowed to prosecute an original or Appeal Suit until the prescribed stamp duty shall have been paid, or until such party shall have qualified as a Pauper.—

be argued ... the Pleader

By order of the Court of Sudr Udalut

25th March 1852 } (Signed) F. Lushington

Acting Register

(A true Copy)

W H Bayley

Secretary—

1852

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1852

Madura 22nd March 1852.

To
R. W. Parker Esqr.
Collector of Madura.

Sir,

I have the honor to acknowledge the receipt of your letter of the 12th Instant.

The Depa Cavul is an institution of a very ancient date, and the Manuums appropriated thereto have become hereditary & prescriptive rights from time immemorial, & all such have been secured to their proprietors by Reg: 31 of 1802 "to be held & enjoyed by them without let or molestation."

The Padamattoor Zemindar holds & enjoys Cavul lands in the Villages of Koonnattoor, Anoorgoor, Cullimungalum & many others in the Ain Talook of Maylore, and in the Villages of Perramanoor, Vellon Currungalacoody, Thavathareyndul, Caloovuncollum Vellaur petta Curresacollum, Allattoor, Adalloor, Pe:rangcollum, Mangoody, Tiroopachethy, Ladaneyndub, Naloor & many others in the Sheivagunga Zemy. In the same way he possessed & enjoyed the lands now in dispute in Cusbah Tiroopavanum of the Tiroopavanum Talook & as often as the Sheivagunga Zemy has been sequestered, on one account or another, whether for Kist, or the exigencies of the Courts of Law, none of these lands have been sequestered and many portions of said lands have been given in-

Plaint [illegible] of [illegible] [illegible] dated 3d Sept 1802 And that of the Sheriff [illegible] dated [illegible] 1808

in Dhanum & Sold by my Client & his predecessors, & such Dhanums & Sales have been respected by all the authorities, Revenue & Judicial, from that time to this - & although so Solds & set apart they still go by the name of the Padamattoor Depa Cavul. The Istimrar Zemindar Gowery Vultaba Perria Odia Saver did on one occasion dispute the right to these lands with the Padamattoor Zemindar - & the question was tried & decided in favor of the latter - the date of this I am unable at present to ascertain. If however I be allowed time & opportunity, I will prove the fact, if needs be.

The right of my Client to said Cavul lands never was disputed, except in the instance just mentioned. It was because of a false Complaint, that my Client held more land as Depa Cavul than he was entitled to in the Tirroopavanum Village, that the lands in dispute was sequestered in fusly 1252 - & not because of any question as to his right to it - that Complaint settled, the lands ought to have been restored to him.

In your letter under acknowledgement you state that the Court of Wards to whom you had referred for instructions, have expressed a wish to have before them a distinct & concise Statement of the nature & extent of the Claims advanced towards the said Cavul Manium by my Client" And you add "it is proper to inform you that

independently

"independently of the alleged excess beyond former engage-
"-ment which led (your State) to the Sequestration by
"my predecessor, there appears to me at present a
"further & more important objection to the Surrender
"of these lands. Viz.t that the Despa Caruel Enam held
"jointly by the Padamattoor & Nattagoody Zemindar
"was resumed by Mr. Lushington, & included in the
"Assets, on which the Govt. Peishcush was fixed. It
"will be necessary therefore to endeavour to show
"that the Enam in question was not so included in the
"Assets, as well as that there has been no encroach-
"-ment on the Ain lands."

[7]

You thereby raise objections to the restoration of the lands in question in addition to & different from that on which they were originally seized & sequestered.

Nature & Extent

For the "nature & extent of the claim of my client" I refer you to the report of the Manager of Sheoagunga, & to the Deposition of the Village Curnum taken at Terroopavanum & which was confirmed verbally by the very Ambalacaren at whose instance the seizure was made, & this dispute originated.

Very [illegible]

That Mr. Lushington ever "resumed" these lands, or even the Zemindary itself, is a misapprehension. The process by which the Zemy was transferred from Marodoo Servacaren to the Istimrar Zemr. was simply installing the latter as Zemindar on the flight of the former as a piece of policy, to quiet the minds of the people, & bring them under subjection. There was

Lo says the Zemy was [illegible]

& Ullumcasum Pillay

was no resumption, no settlement of accounts preparatory but accounts were afterwards obtained, & the Peishcush fixed. And these accounts it is that were afterwards unaccountably lost, And that "the lands were included in the Assets, on which the Govt. Peishcush was fixed" is equally a misapprehension & I challenge the production of a single account or Document to support such an allegation. The whole state of the Case, the condition of the rest of the Camul lands above mentioned belonging to the same individual & all past experience refute it.

It is true that one of your predecessors Mr. R. Peter did write & ask the Istimrar Zemr. in Decr. 1814 to furnish them with a Copy of the Istimrar accounts on which his Peishcush was fixed, & that he did, upwards of two years after, furnish what he pretended to be such an account. But this Account yourself & all your predecessors have scouted as a false & fabricated account & the Courts have rejected it as such in all the suits in which it has been introduced. The proofs of this also I will submit, if needs be, & time & opportunity be afforded me.

Under these circumstances I trust the Board will see the justice of no longer withholding the restoration of the lands in dispute & their income in arrears for the time they have been under sequestration.

I have the honor to be,

Sir,

Your Most Obedt. Servant

[illegible]

Recd with record 20 Octr /51 / On the 20 Octr 185? - by ???

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Extract from the Proceedings of the Sudr Udalut under date the 19 April 1852.

In Appeal No. 7 of 1849

Raunny Ungamootoo Nauchear, Pauper Appellant on her demise her alleged heirs Boolaka Nauchear Cota Nauchear and Cotama Nauchear by Vakeel J. Ouchterlony Esqre Sowmeya Nauchear by Vakeels A. M. Ritchie Esqre Barrister at Law and Streenevasa Charry

and

Mootoo Vezia Raghoonada Mootoo Vadooga Paria Oodea Taver by Vakeel R. Teroomul Row

versus

Sreematoo Rajah Mootoo Vezia Raghoonada Bodagooroo Sawmy Peria Odia Taver, minor zemindar of Sheva Gunga by his Guardian Cotty Josezar by Vakeels G. Norton Esqre Advocate General, C. Dale Esqr and Goolum Moortzah and Namasevaya Taver by Vakeel V. Seth Sam Esqre.

The Court proceed to consider the record in appeal No. 7 of 1849.

This is an appeal in forma Pauperis by Ungamootoo Nauchear widow of the late Zemindar of Sheragunga from the decree of the Civil Court of Madura in Original Suit No. 2 of 1845 instituted by the said sole appellant and Plaintiff for the recovery of the zemindary of Sheragunga and

and which appeal, the said Appellant having died on the 24 June 1850, is now prosecuted by the several parties named above in succession to Ungamuttoo Nauchear under the order of this Court of 1st May 1851.

2. The Judges will first observe that these several parties do not claim as having a joint or common interest; but that their interests are altogether separate and conflicting; and further that no one of them has yet prosecuted her or his claim in an original action before the Zillah Judge of Madura.

3. There appear therefore to be two questions, which present themselves on the face of the record for the consideration of the Court.

First. Whether these several parties who are now before the Court and who are not Paupers and have not qualified as such under the law in force can be heard in and permitted to prosecute this Pauper appeal and Reg.n VII of 1818.

Second. Whether it is competent to the Court of Sudr Udalut to determine their claims in an appeal suit in as much as they have not been heard, nor judgment passed upon them in any Court of original jurisdiction.

4. Upon the first question the Court are of opinion that under the provisions of the law Regulations VII of 1818, IV of 1825 and III of 1822 these parties who are not paupers, and do not claim to be such, have no standing

in

in this Pauper appeal, and that it is informal and contrary to equity that parties should be admitted to try their rights and sue the Respondent in this appeal who have neither paid the prescribed institution

XIII Reg XIII of 16. fee nor qualified as Paupers. 175

5. It is manifest to the Court moreover that these parties who now appear as appellants, are not and cannot all be the next and immediate heir of the Pauper Appellant Ungamootoo Nauchear, nor do they appear and claim as her representatives but on their own distinct rights, as descendants of the late Zemindar. It is not therefore apparent to the Court, upon what ground under the Regulations in force they can be substituted for the widow and carry on her appeal.

6. It is clear also to the Court looking to the provisions of Section VII Regn. VII of 1818 clause first, that the admission in the Pauper appeal of motions by the parties before the Court upon Stamp papers taints the proceedings with informality if not illegality.

7. Upon the second question, the competency of the Court to determine the rights of the several parties by a Judgment in this appeal Suit, the Judges are of opinion that the Court of Sudr Udalut has no authority to exercise original jurisdiction on the claims before them which are not only conflicting but against which diverse opinions have been placed on the record by the Law Officers of this Court, and that it is contrary to the general principle of the laws in force and

to

to the provisions of the Code for this Country to hear and determine in an appeal suit the rights of parties to property whose titles have never been brought to issue by such parties before a Court of Original Jurisdiction-

8. It is further clear to the Judges that under the Regulations, Regulation XV of 1816 and Act VII of 1843 Section IX parties can only be heard and have their rights determined on an appeal suit before the Court of Sudr Udalut who have conformed to the rules prescribed for the admission and hearing of appeals, but that as this has not been done, as is evident upon the face of the record by the several appellants, it is not competent to this Court to pass Judgment and determine their respective rights by means of this appeal- For this would in fact be to exercise so far as regards their claims, an original Jurisdiction and to dispense with the rules and course of procedure prescribed by the law, neither of which the Judges are of opinion is it open to this Court under any circumstances to do-

9. It is resolved therefore to reverse the orders of the 1st May 1851 and to inform the several parties Viz.

Boolaka Nauchear
Oolaw Nauchear
Calama Nauchear
Soumeya Nauchear and
Mottoo Vizia Ragoonada Mottoo
Vadooga Peria Oodea Taver

who have appeared in Pauper appeal No. 7 of 1849 that they cannot be heard in the said appeal but that they must pursue their rights in the Court of original

A Search made to the other Sheet in the Office 1851 by the Collr on No. 27 Octr 1852 & found none & [illegible] file in the [illegible] in [illegible]

original Jurisdiction in the first instance by the Zillah Court, and that Court must be guided in the admission and hearing of their claims by the Regulations in force

10. Before closing these proceedings the Judges deem it right to state at some length the grounds upon which they have overruled the objections which have been urged against the issue of the foregoing order, namely that inasmuch as it reverses the order of this Court of the 1st May 1857 passed after full and deliberate hearing by a full Court, it is beyond the competency of the Court. And further that it is unsound in principle as it must introduce the greatest confusion and uncertainty if the different Judges sitting at different times in this Court, reverse the acts and orders of their predecessors.

11. The Court will first observe that they attach the greatest possible weight to these objections. But they are of opinion that the principle contended for, that this Court ought not and indeed cannot reverse its own orders, at its discretion cannot be upheld in all its breadth in matters or causes, actually pending before the Court, and where as in the case before them the appeal with the whole record is sub judice.

12. Further, that there must of necessity be some limitation, in enforcing the principle urged upon the attention of the Court, such for instance, that if on the face of an order it is evident that there has been manifest error or omission, the Court must have the power of rectifying such error more especially when there is no appeal to a higher tribunal for this correction.

Order of Court of Sudder Dewany Adawlut Calcutta deciding that there is no appeal from an interlocutory order.

13. The Court will also remark that whilst the order of the Court now declared reverses that of the 1st May 1857, it affirms

in principle the previous order of the same Judges of the 21st October 1850 equally upon the record in this Appeal, and that no precedent is consequently afforded by the order now issued which would sanction as argued, the arbitrary and unlimited interference by one set of Judges with the orders of their predecessors.

14. The Court must also observe that in reversing the order of 1st May 1851 they do not overlook the fact that that order is based upon a ruling of an English Court of Justice which can be no authority to this Court in the admission or hearing of this Appeal. The Regulations distinctly providing that in Appeal Suits on its file, this Court is to follow the rules and provisions enacted for the guidance of the lower Courts, and the Court of Sudr Udalut have no power to deviate from nor dispense with them under a ruling or in accordance with the practice of an English Court of law.

15. It might also be questioned whether there is such analogy in the two cases that the one cited forms any ground for the order of 1st May 1851. In the case before the House of Lords, the party permitted to prosecute the Appeal stood in the same relation to the property as the party deceased. He was the sole and immediate heir and there were no opposing and conflicting claims. His claim too was precisely of the same quality as that of the original Appellant.

16. In the Appeal No. 7 of 1849 before this Court the several parties are not and cannot all be the immediate heir. Further the original Appellant claimed as the widow. These Appellants assert their titles, on different and distinct grounds

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and maintain the one against the other their priority of title as heirs to the property. The circumstances of the present case would appear therefore to differ materially from the case cited* in the Order of 1st May 1851 even if that case were a legitimate rule or guide to this Court, which it is not.

* Osborne versus B. Usher J. Pomeroy & others

17. Lastly the Court entertains the greatest doubt if the ends of Justice would be furthered, and the interests of the parties advanced were the Judges to proceed at once to a Judgment in this Appeal. The result they apprehend would only be to involve the several Appellants in still greater costs and delay and too heavy expenses before H. M. Privy Council to which such Judgment would be carried up in Appeal, and whence the Suit might be again remanded, and the parties required to bring their claims to a regular hearing before the proper and competent Tribunal in the form and mode of procedure prescribed by the Regulations.

18. The Judges are of opinion therefore that they best consult the interests of all parties, and forward the ends of Justice by the course they now pursued and the Appeal No. 7 of 1849 is therefore now struck off the file of the Sudr Udalut having abated on the death of the Pauper Appellant Ungamootoo Nauchear.

Ordered that Extract from these proceedings be furnished to the Petitioners Vakeels on their application.

Ordered also that Extract be sent to the Civil Judge of Madura

for his information.

(A true Copy)

W. H. Bayley
Secretary

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No. 104 / 57

Revenue Department

Extract from the Proceedings of the Court of Wards dated 29th April 1852.

Read letter dated 12th April 1852 from the Collector of Madura

(Here enter No. 71.)

In reply to the enquiry contained in the foregoing letter, why the Court of Wards considered the resumption by Mr. Lushington of the Desacavel Enams to be incompatible with the Collector's view that the lands formed part of the A[illegible] on which the Peishcush of Shevagunga was fixed, the Court would now explain that they were under the impression that Mr. Lushington resumed the Desacavel Enams in question for the benefit of Government, because they (the Government) "had undertaken the Police of the Country and had reserved to themselves the right of continuing or abolishing all Lands &c. appropriated to the purposes

of Police Establishments previous to their issue of the Sunnud i Mulkeut Istimrar –

Copy of Permanent Sunnud Section II. C. C. Book, page 5

2. From the further information now submitted by the Collector, it would however appear that the resumption was not to the Government but to the revenue of the Zemindary and to form part of assets on which the Peishcush was fixed –

(A true Extract)

W. H. Bayley
Secretary

To

R. D. Parker Esq.
Collector of Madura –

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To

R. D. Parker Esqre

Collector of Madura

R

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Sir,

I have [illegible] to acknowledge the receipt your letter of the 24 [illegible] relative to the Claim, as you call it, of the Sadamattoor Zemindar to certain lands called Dessa Caval Manium in the Village of Seroopavanum &c. I am not a little surprised at the Court of Wards resistance of his demands & of the character of that resistance —

In the first place I would beg to state that I conceive the Conduct of your predecessor and yourself and the Court of Wards in this case to have been peculiarly hard and unusual. My Client is in quiet possession & enjoyment of certain lands — he and his forefathers had been so from time immemorial — he is suddenly accused, not by the Zemindar or his Servants, or any one legitimately interested therein, but by a private Enemy, who has [illegible] information [illegible] of holding and enjoying more land in a [illegible] instance than he is entitled to; it is charged that certain lands are included in his holding in Casbah Seroopavanum. Your predecessor does not first make any enquiry as to the truth of the charge but at once seizes and sequesters not [illegible] which my client is charged [illegible] holding [illegible] in the particular [illegible] which [illegible] the [illegible] but the whole of his [illegible]

in the Seroopavanum Salo &c. And it is held and kept under Sequestration for years in spite of remonstrances, and when at length enquiry is accorded, you do not call upon the public informer and accuser to make good his charge, or do any thing to justify the harsh conduct of your predecessor, but you force my client into a position, which you yourself ought [illegible] are occupied of proving a charge made, and justifying an irregular course of conduct pursued, and call his demands for the restoration of property taken from him a "Claim" on his part, and ask him "the nature and extent of the Claims advanced by him towards the said Varut Maniam"; throw the onus probandi upon him, and tell him to prove his right, not only to the excess, but to any portion of the lands which had actually been taken from his possession. And thereto you add a new and as you state "a further and more important objection" to the restoration of the lands in question, viz "that the Desa Cattle Viam held jointly by the Savamattoor &c. Pallavoory Zemindars was resumed by Mr. Washington and included in the assets on which the Govt. Peishcush was fixed". And the onus probandi of this new and speculative objection too you would throw on my client.

The new objection I challenged you to establish since you had advanced it, in showing cause in my letter of the 22 March last, by which you stated [illegible] not be the fact; In reply you say "[illegible]

in the case of the Sadamattoor Zemindar he (Mr. Lush-
ington) pursued the same course and resumed the Desp[illegible]
Cawnl to the Shevagunga Zem.y, to which that Sotteem
or rather Jerovithum pays poroopoo is the question now
discussion, relative to which I am anxious to hear all
the Arguments you have to advance, with the view of sub-
mitting the question in the most perfect shape possi-
ble to the Court of Wards." 195

I have no further Arguments to adduce against
this objection than what I have already done above and
in my said letter of the 22d. March last - therefore it
only remains for me to address myself to the first
objection -

To establish the nature and extent of my -
Client's right, I referred you to the report of your own
Manager of the Zemindary and the accounts he submit-
ted with it, and to the Deposition which you [illegible] taken
from the Curnum of the Village in which the land in
dispute is situated - Docs with which (both obtained
by you in consequence of my application) [illegible]
I had become acquainted - as the simplest & directest
way of deciding the question of not only my Client's right,
but the nature and extent of that right - and by these
Docs must the question in a great measure be eventually
[illegible] - If I claimed more for my client than [illegible]
[illegible] you or the Court of Wards [illegible]

to give it me - and if I claimed less than my client was entitled to, you are bound in honor to correct it - and by what will you be guided, but by the above Docs - and even if you drove us to the Civil Court, or the Home Govt. for redress, these are the Docs that will mainly govern the issue of the case -

I have not the smallest objection however to state in distinct and concise terms the nature and extent of my clients not "Claim", but right to the said lands. They are as follows - The first is long possession, from time immemorial - the Curnum could, I believe, go back as far as 150 years by his record - The second is 78½ Cheys of Nunjah land, and 36 Coorookums of Punjah. 27¼ Cheys and 19 Coorookums in Cusbah Ferooparanum - 4½ Cheys and 4 Coorookums in Villayanganut - 1½ Cheys and 6 Coorookums in Sheetthiaputhary - 23/4 Cheys in Summathiyendet - 3¼ Cheys and 3 Coorookums in Shavalaycollum - 4¾ Cheys and 6 Coorookums in Shervocollum - 20½ Cheys and 1 Coorookum in Kulliandoor - 5 Cheys in Summaneyendu - and 3½ Cheys in Coracollum - [illegible] 7⅛ Cheys of Nunjah intermixed in the above, belonging to the Kattacoody Zemindar, which was extended to his representative Mahamaharchary - and [illegible] 1¼ Coorookums of Punjah sold to three different individuals should [illegible] [illegible] the charge or information [illegible]

these lands were seized and sequestered, was that Som
Ain land was included in the 27th [illegible] of Cavnl [illegible]
one in Undbah Teroopavanum — (157)

Long possession alone was a sufficient tit
the Board of Revenue, & under their advice, the Madr
Govt insist upon depriving me of, and retaining them
selves a large piece of land in my Mootah of Salem,
simply because they had held it undisputed for more
than 12 years, although they admit it to be Ain and
to belong to my Mootah, and that they had originally
taken possession of it without any authority whatever,
and were indebted for holding it so long to the apathy
of the former native proprietor a woman and this
proceeding has been sanctioned by the High Court of
Sudder Adawlut —

And I beg to be excused for asking, if it
was yours and the Court of Wards opinion that the [illegible]
Jessa Cavil Mauiums in Shivagunga [illegible] formed a part
of the Ain of the Zemindary, why the Nattagoody [illegible]
Cawnl which is incorporated and was seized and se
questered with that of Sabamattoor was released. I
stated in my former communication that this question
had once before been raised and settled knowing
a copy of the [illegible] order passed by your pre-
[illegible] on this occasion —

With reference to the remark contained

the 5th para of your letter. When I said the Dessa Caval Enanium had become hereditary and prescriptive ... its from time immemorial &c., I meant of course that in the Shevagungah Zemindary - but that such is the case in many other places though perhaps not in the Polliems, in the Tinnevelly District, I am prepared to prove - but this as well as the question of right to the lands is foreign to the real question at issue which is whether any Ein land is included in the lands held by my Client as Dessa Caval in the Cusbah Village of Teroopavanum, or not - and to it may be added the question that even if there is, whether your predecessor was justified in seizing and sequestering the whole of the lands, and withholding it from my Client on the charge that was made, and from the party making it - or whether as the Collector of the District, when the charge of land in excess being held by my Client was made, he ought not to have referred the two contending parties to the Civil Courts instead of interfering and taking a side, and exercising his public Authority in favor of that side -

All that I ask of you is that you will judge between my Client and his enemy impartially and not make yourself a party in the case, employing your official Authority in favor of that party ... ... and ... ... the most ...

time of giving offence, I merely State plain patent facts which I submit you are doing now on the simple accusation of one man you seize and Sequester the property of another and which I submit you are doing when you raise new pleas against the restoration of such property, and employ your authority in giving effect to such pleas instead of trying their validity at the proper tribunal - all that I ask of you is that you will judge impartially between us - and that since by the enquiry you have instituted, it has been proved that the charge on which the lands were seized and sequestered was false, you should restore them in statu quo in which they were found when your predecessor interfered, with a refund of the income from it, with interest during the time it has been in the Circar Keeping

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I beg to add that many Mamoolies have from time to time been claimed by the [illegible] as Aim. I wish the Board or the Court of Wards, in whichever capacity that body acts, were governed by the same principles in this case as they were in those two instances seen to me at the moment which I beg to mention one is that of the Village of Ettianthingoody for the Boards proceedings in which I beg to refer you to their proceed. of the 4 March /47. Of which I send you

Marked A. a Copy lest you have it not at hand - In these Proceedings

the by the Board make the following remark in regard
to the accounts rendered by the Zemindar in 1817, as a
[illegible] copy of the Istimrar accounts, on which his
[illegible] was fixed (it is at the conclusion of para 2d)
"It should moreover be observed that the Istimrar
"accounts had been rejected by the local authorities
"as totally incorrect & inadmissible".

The other is that of the Villages or hamlets
of Shudunghee & Puttaneyndul. In reporting in
respect to these Villages to the Zillah Judge on the 24th March /24 in reference to Suit in Register No. 53 of 1823, the then Dt. Collr. Mr. Rous Peter says (para 3)
"In fusly 1226 the Zemindar furnished an account
"stating it to be the particulars of fusly 1211, upon
which the permanent Settlement was formed, in wh.
Shudunghee & Puttaneyndul are "interlined" as belong-
ing to Ranoor Village, but this account I have not consi-
dered as being a correct copy or counterpart of the accts
of fusly 1211 - and this view of the case was adopted by
the Court in its Decree in said number.

In marked E

I also send you copy of the Dec. to which I
alluded when I said in my letter of the 2d March /52,
that yourself and all your predecessors had treated
this account as a false and fabricated account
it is an answer from you to a question from the Court
in the Cl. Suit No. 3 of 1844 about the Village of [illegible]

marked D

-jinthy putty-whether it was Manium or Ain- In said Answer you say- "The Original Istimrar "account of Fusly 1211 is not to be found in the Dr. or "The Zemindar sent in Fusly 1226 what he purport"ed to be Copy of the said Account- In that accou "the Vumjinthy putty Village is entered as Ain. "but there has been much Correspondence from the "late Collector Mr. Rous Peter declaring the "said account not to be trust worthy- The Collr. "does not enter more fully on his subject, as he is "not asked to do so by the Court".

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The intermediate evidences that these accounts of 1817, which took two years to concoct, are false and fraudulent, I will collect and submit if needs be.

If after the above full explanation you think it will be any use our meeting at the Cutcherry to look into Accounts &c. I shall be happy to do so on my return from Salem, whither I am called by urgent business for a few days.

I have the honor to be
Sir
Your most obedient Servant

Madura }
8th May 1852. }

Revenue Department

Extract from the Proceedings of the Board of Revenue dated 4th March 1847.

Read the following letter from the Sub Collr of [illegible] returning Petition No. 573 of 1846 and explaining that the Village of Ellathingoody has been enjoyed as a Jodipat & not as a rented Village. 1203

(Here enter No. 28)

Para. In the foregoing letter the Sub Collr reports that the Villages of Ellathengoody with its dependant hamlets, has been in the possession of the Petitioner's ancestors as a Jodipat in hereditary succession for many years both previous and subsequent to the formation of the [illegible] Zemindary and that a portion of the Jodipat was, with the concurrence of the [illegible] and other preceding Zemindars assigned as an endowment for a Pagoda, and further that receipts have been granted by these parties as well as by the Petitioner himself to the incumbents for the fixed amount of annual Jodi [illegible] chargeable on the Village in question.

In the year 1835 a claim was advanced on the part of the Zemindar to the Village on the ground that it was held by the father in possession on rent tenure, but on that occasion evidence was produced to show that firstly the Village [illegible] [illegible] the Zemindary [illegible] [illegible] brought by the present Petitioner [illegible] of his alleged [illegible]

by a reference ... the insertion of the ... the ...
... that the Circumstance was not deemed ...
to invalidate the right acquired by previous Resolutions ...
... extending over a series of years coupled with other ...
... of title ... as above noticed by the ...
It should moreover be observed that the ... account
had been rejected by the local Authorities as totally incorrect
and inadmissable.

In consequence of dissensions arising among the
parties in possession, the Villages was taken under attachment
towards the close of the year 1805, pending a reference to the
Civil Court respecting their natural rights. Subsequently to
this event on the application of the Zemindar it is stated, that
he was placed in possession of the disputed Villages on an erro-
neous impression of his right extending over them ... appears
however that his possession ... was merely nominal as the
... was ... by his adversaries whom he obtained
... thereby tacitly acknowledging
... of his tenure.

The Zemindary having at a subsequent period ...
fallen into arrears of Peshcush, the entire estate was ...
by the Officers of Govt. and on its release in the year 1816 ...
Blackburn ... satisfied of the legality ...
... of the Petitioner's adversaries ... estate ...
... and their ... in the enjoyment of ...
... ...

[illegible] at the time [illegible] first appears to the Board that the [illegible] 208

[illegible] has failed to show [illegible] claim to [illegible]

[illegible] as forming a part of the [illegible] of the [illegible]

[illegible] as alleged by him; but on the other hand

to have established the fact of possession by his [illegible]

there for a series of years, and the payment by them of the

[illegible] demandable on the Village not as an annual [illegible]

but as the fixed Jumma payable on the Village as a [illegible]

for which moreover they had been furnished with receipts

so far back as fusly 1212 not only by the then Zemindar

and subsequent sequestrating servants of Govt., but also

by the Petitioner himself the present Zemindar. Under

these Circumstances therefore it appears to the Board that

no interference on their part is called for in the arrangement

made by the Zillah Collector but at the same time they resolve to

intimate to the Petitioner by endorsement on his address that if

he is dissatisfied with the course that has been adopted

by the local Authorities the Civil Tribunals are open to

afford him redress.

Ordered that the following endorsement be passed on

the above Petition.

The Board of Revenue see no grounds for their

interference with regard to the possession of the Village of

[illegible] claimed by the Petitioner and now [illegible]

[illegible] continued [illegible] the case [illegible]

[illegible] the [illegible] be considered [illegible]

[illegible] appeal to the [illegible] Court [illegible]

[illegible] informed [illegible]

[illegible] is indispensable

(A true Extract)

[illegible] 8th March 1814

(signed) D. White

[illegible]

(True Copy)

(signed) Richd. Tasker

Collector

[illegible]

To

The [illegible] Judge in [illegible] Madras

Sir,

1. I have the honor to acknowledge the receipt of your letter of the 2d Inst. requesting to know whet[her] Shedunghee and Puttanaindul Villages are considered in my Office to be Durmasanum or not. In reply I beg to state that when a registry was made in my Office in the year 1824 the above two Villages were registered as hamlets attached to Karoonacolum and Pethanandul Durmasanum Villages.

2. The Maneum account furnished by the Zem[indar] of Shevagunga in 1804 specifies Karoonacollum and Puttanaindul to be Durmasanum Villages but the hamlets are omitted [illegible] same manner as hamlets of all other Vil[lages] [illegible] which it has not been usual to insert.

3. In fusly 1226 [the] Zemindar furnished [an] account stating it to be the particulars of fusly 1211 upon which the permanent settlement was formed in which Shedunghee & Puttaraindul are interlined as being hamlets [illegible] but this account I have not considered as being a correct copy or counterpart of the accounts of fusly 1211.

[illegible] um and Pallanandul Villages are [illegible] as Durmasanum both in the accounts of 1804 and 1814 and as Shidurng and Patt nandul have been noted in the Register of 1814 as being hamlets attached to them the entering the two hamlets in the subsequent account furnished in Fusly 1226 A. D. 1816 causes suspicion and renders further enquiry necessary to establish to which Village the hamlets belong.

Madura
21st January 1824

I have the honor to be
Sir
Your Most Obed.t Ser.t
(Signed) R Peter
Collector

Received
20d January 1824

True Copy
(Signed) C R Baynes
Civil Judge

Letter from the Collector of Madura to the Zillah Judge of Madura [illegible] 1824

(Signed) W. O. Shakespear
Judge